

# MODULE 7

## Your Rights When Talking to the Police

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### Focus Question - What are our rights when talking and interacting with the police?

#### Overview

In this module, students are invited to consider their constitutional rights and how these rights are engaged when speaking to the police. Different scenarios will be discussed in order to ensure that students understand what rights are exercised and when. Students will also learn which resources are available to them when they are unsure of how to exercise or engage their rights.

#### Learning Objectives

- To understand our rights when talking to the police.
- To know which resources are available if we're unsure of what our rights are.

#### Note to Teacher

It is extremely important that the information in this module is not taken as legal advice. When a young person is in conflict with the law, s/he must contact a lawyer for legal advice. Justice for Children and Youth (JFCY) is a provincial clinic mandated to provide legal advice to all young persons in Ontario. Teachers are encouraged to contact JFCY at any time if legal advice for students is ever required. The JFCY website is [www.jfcy.org](http://www.jfcy.org) and their toll free number, from anywhere in Ontario, is 1-866-999-JFCY (5329). There are also many print and electronic resources available to supplement the materials covered in this module. Please refer to the list of additional resources in the introductory section of this guide.

#### Disclaimer

Criminal charges can result in very serious short term and long term consequences. It is very important that everyone consult a lawyer about criminal matters. The materials contained in this module do not provide specific options or advice about handling a criminal case. There is always some assistance available for youth facing criminal charges. Legal Aid or local Legal Aid Clinics may be able to provide a lawyer for a young person. JFCY can also provide legal representation and advice for youth across the province and can also help a young person find a local lawyer.

# ACTIVITY 1

## Knowing Your Rights

### Materials

- Copies of *Youth and the Law Quiz* (one per student; optional)
- Copies of *Youth Rights Scenarios* (one per group)
- Copies of *Arrested and Under 18 JFCY Resource* (one per student)
- Copies of *The Police JFCY Resource* (one per student)

### Teaching and Learning Strategies

1. Have students complete the *Youth and the Law* quiz. You can either distribute the quiz as a handout or read out the statements and complete it as a class. If anonymity would be helpful for students in answering the statements, place the statements around the classroom and invite students to provide their answers by going around the room and writing them down. You could choose to take a tally of the responses afterwards and discuss as a class.
2. Divide students into groups of 4-5 and distribute the handout, *Youth Rights Scenarios*. Ask students to consider what each party should do in the situation.
3. Distribute the JFCY handouts and ask students to record answers to the scenarios using the information. You may choose to review the handouts as a class as well. Additional materials are available for download from [www.jfcy.org](http://www.jfcy.org).



## MODULE 7 - Your Rights When Talking to the Police

## ACTIVITY 1 Knowing Your Rights (Cont'd)

**Teacher's Key - Youth and the Law quiz**

1. N – If you are stopped by the police, you do not have to answer all of their questions. You cannot be arrested for refusing to answer questions and the police cannot question you without a reason to do so. To be cooperative, you may politely choose to give your correct name, age and address. It is important not to give a false name, age or address as this may lead to a charge of obstruction justice. You also have the right to ask if you are free to go or if you are being arrested. [Reference to JFCY materials: pgs. 75 (#1-4), 76 (#2-4)]
2. N – Even if you are under 18, a police officer can search you when you have been arrested or when the police believe that are carrying illegal drugs or a weapon. The police can also search anyone who lets them. So if a police officer asks if they can search you and you don't object, then they may assume that you are letting them search you. [Reference to JFCY materials: pg. 76 (#6-8)]
3. N – If you are treated badly by a police officer, you can make a complaint about the officer. A complaint can be made with the help of a lawyer or a community legal clinic to the Office of the Independent Police Review Director (OIPRD) or to a local police station. [Reference to JFCY materials: pg. 80 (#16) and Module 7, Activity 2]
4. Y – Anyone who is arrested has the right to speak to a lawyer. Even if you do not know the name of a lawyer to call, the police are required to provide the number for a lawyer who can provide you with free legal advice. [Reference to JFCY materials: pgs. 77 (#5), 78 (all)]
5. N – There are serious consequences if you do not show up for a court date. As soon as you do not show up for your court appearance, a bench warrant is signed which allows the police to find you and arrest you for Failing to Appear in Court. Failing to Appear is a serious offence which you would now have to deal with in addition to the underlying offence for which you originally had a court appearance in the first place.
6. N – When you turn 18, a warrant for your arrest does not disappear. A warrant for an arrest remains outstanding until the person on the warrant is found by the police. Once you are arrested, you will be treated as a young person if the offence took place before you turned 18.
7. N – When you turn 18, your criminal record is not destroyed. Depending on the type of offence and the sentence you received, there are different periods of time for when a youth record will be destroyed. For certain offences, such as sexual assault or murder, a record will never be destroyed. You should always consult with a lawyer on when and if your youth record will be destroyed. [Reference to JFCY materials: pg. 82 “When are youth records destroyed?”]
8. N – When you apply for a job, an employer cannot ask you about a youth record. Your employer can, however, ask for a police record check, whether you have a criminal record (which is different from a youth record) or whether you have ever been charged. [Reference to JFCY materials: pg. 83 “A youth record may prevent you from getting a job”]
9. Y – Having a record can prevent you from visiting another country, including the United States. Even if you have received a pardon or criminal charges that have been cleared without a conviction, you can still be denied access to certain countries.
10. Y – If you are not a Canadian citizen, you may be asked to leave the country for having a youth record. This is a very serious area of law and anyone who is not a Canadian citizen should contact a lawyer as soon as s/he is arrested. [Reference to JFCY materials: pg. 83 “A youth record can seriously affect your immigration status in Canada”]

## ACTIVITY 1 Knowing Your Rights (Cont'd)



### Teacher's Key - Youth Rights Scenarios

Note: All of the rights mentioned in this module are rights which are enshrined and protected in the *Canadian Charter of Rights and Freedoms*. In addition to these rights, young people (under the age of 18) also benefit from extra procedural precautions that are set out by the *Youth Criminal Justice Act* – the piece of legislation which governs how young people are processed in the criminal justice system. Specific rights have not been mentioned in the given teacher's keys. For a more detailed explanation on the different rights protected by the *Canadian Charter of Rights and Freedoms*, please refer to the following OJEN resources: The *Canadian Charter of Rights and Freedoms*, available at <http://ojen.ca/resource/3514>, and Section 1 of the *Charter* and the Oakes Test, available at <http://ojen.ca/resource/980>.

1. Johnny has the right not to answer the questions and to ask if he is under arrest. Additionally, the police need to have a reason to question Johnny, or to detain him any further. Despite this, Johnny would be well advised to answer the police officers politely and to provide the requested information, as the police do have a right to ask these kinds of questions in the course of an investigation. Most importantly, Johnny should not provide any false information. Providing false information is a serious offence and can lead to a charge of obstruction of justice. [Reference to JFCY materials: pgs. 75, 76 (#2-4)]
2. Shane should ask the officers if he is free to go, or if the police are arresting him. If they are not, Shane is free to go on his way. If they are arresting Shane, he has a right to know why he is under arrest and a right to speak to a lawyer without delay. Regardless of whether or not he is being arrested, Shane does not have any obligation to answer any questions. His refusal to answer questions cannot be a reason for the police to arrest Shane or to charge him with any criminal offence. [Reference to JFCY materials: pgs. 76 (#4), 77 (#3, 5)]
3. Bob should cooperate with the officer and provide the requested documents. Bob can ask the officer why he was stopped since the police must have a reason for pulling him over in the first place. The police do not have the power to arbitrarily pull people over and question them; a police officer must have a belief that you have broken the law or are about to break the law. Bob should ask if he is being arrested or charged with an offence, and if not, he is free to go on his way. [Reference to JFCY materials: pg. 76 (#2, 5)]
4. Ricky should cooperate with the officer. Ricky and his friends are minors and under the law, they are not allowed to consume alcohol or have any alcohol in their possession. In this case, the officer has the right to search the car because of the smell of alcohol and the age of the occupants, which all establish reasonable grounds for the officer to search without a warrant. The fact that Ricky does not say anything when the officer starts to search the car can also give the officer permission to search since it is assumed that he does not object to the search. If Ricky is objecting to the search, he should tell the officer that he objects. [Reference to JFCY materials: pg. 76 (#6, 7)]
5. Ricky has the right to know why he has been arrested and the right to talk to a lawyer without delay. Both of these rights should be explained to him in a way that he can understand. Ricky has the right not to make any statements, the right to talk to a lawyer and his parents or another adult before making any statements, and the right to have his lawyer and his parents or another adult with him during police interrogations. The police are also required to contact Ricky's parents and inform them of his arrest. [Reference to JFCY materials: pgs. 76-77 (#5, 6)]
6. The officer has several alternatives to consider other than arresting Emily - particularly as she has not been in trouble with the law before. Aside from charging and arresting Emily, the police officer has the option of giving Emily a warning about her conduct, cautioning Emily (or her parents) on the spot or at the police station, or referring Emily to a community program to address her conduct. [Reference to JFCY materials: pgs. 75 (#3), 77 (#9)]
7. Jamie has the right to not answer any of the officer's questions and should exercise this right by not answering any questions. Jamie must also be informed of that right by the police officer. Even if Jamie were to consider making a statement, he should first make sure that both his lawyer and/or parent are present during the police questioning. Any comments or statements made to the police can be used against Jamie during legal proceedings, and so it is important for Jamie to exercise his right not to speak to the police until his lawyer is present. [Reference to JFCY materials: pg. 78 (#3, 4, 5)]

# YOUTH AND THE LAW QUIZ

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1. If you are stopped by the police, you must answer all of their questions.

**Yes/No**

2. If you are under 18 years old, a police officer cannot search you.

**Yes/No**

3. If you are treated badly by a police officer, there is nothing you can do.

**Yes/No**

4. If you are arrested, you have the right to call a lawyer.

**Yes/No**

5. If you do not show up for a court date, nothing will happen to you and you will just get a new court date.

**Yes/No**

6. When you turn 18 years old, a warrant for your arrest will disappear.

**Yes/No**

7. When you turn 18 years old, your criminal record is destroyed.

**Yes/No**

8. When you apply for a job, an employer can ask you about your youth record.

**Yes/No**

9. Having a youth record can prevent you from visiting another country.

**Yes/No**

10. You may be asked to leave the country if you have a youth record and you are a non-Canadian citizen.

**Yes/No**

# YOUTH RIGHTS SCENARIOS

**Using the information from Justice For Children and Youth (JFCY), determine what each party should do in the situation.**

1. Johnny is walking down his street when two police officers suddenly approach him. The officers ask Johnny for his name, his address and for his date of birth. Should Johnny answer the officers? Does he have the right not to answer the officers?

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2. Shane is riding his bike in his neighbourhood when he notices an officer signalling at him to stop. The officer asks Shane for his name, address and date of birth – which he provides. The officer then starts asking Shane where he got his bike, where he was going and which school he attends. Should Shane answer the officer? Does he have the right not to answer the officer?

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3. Bob is driving home from school when a police car pulls him over. Bob doesn't believe he was doing anything wrong. The officer approaches Bob's window and asks him for his driver's licence and registration. Bob wants to know why he was stopped. Should Bob cooperate with the officer? Is it ok for Bob to ask the officer why he was stopped?

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4. Ricky and his friends, who are all 17 years old, are driving home after a house party. Ricky didn't drink at the party, as he was the designated driver, but his friends had a couple of beers. On their way home, their car gets pulled over and the officer who approaches the vehicle notices the smell of alcohol. The officer asks Ricky and his friends to step out of the car and starts to search the vehicle. Does Ricky have to cooperate with the officer? Does the officer have the right to search Ricky's car?

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# YOUTH RIGHTS SCENARIOS (Cont'd)

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5. Upon searching the car, the officer arrests Ricky for driving while impaired. The officer says that he will not be bringing Ricky to the station and gives him a court date. What else does Ricky have the right to know at this point?

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6. Emily has just been stopped at a local grocery store where she was caught attempting to steal some bags of chips. The officer arrives on scene and sees that Emily has never been in trouble with the law before. What can the officer do at this point?

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7. Jamie has been brought to the police station after being arrested and charged with an assault on his school mate. The officer who arrested Jamie starts asking him questions about the assault. Should Jamie answer the officer? Does he have the right not to answer the officer?

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# ARRESTED AND UNDER 18



## UNDER 18? QUESTIONED OR ARRESTED BY POLICE?



1. To be cooperative you may choose to give your correct name, age and address. Ask if you are free to go. If they say no, they may be arresting you.
2. Ask why you are being arrested. You have a right to know.
3. Before the police can charge you, they must consider the following alternatives: They can:
  - a. Let you go.
  - b. Give you a warning.
  - c. Caution you (and even your parents) on the spot or at the police station.
  - d. If there are grounds for a charge, and if you agree, refer you to a community program.
4. If the police officer does not mention these alternatives, politely ask about the alternatives.

**24 hour Legal Aid Lawyers 1-800-268-8326 or  
(police must give you this #) (416) 947-3330  
Justice for Children & Youth (416) 920-1633  
(outside GTA) 1-866-999-5329**



**MODULE 7 - Your Rights When Talking to the Police**  
**ACTIVITY 1: Knowing Your Rights**

**STUDENT HANDOUTS**



This material has been excerpted from *Know Your Rights: A legal guide to your rights and responsibilities for people under 18*. The full version is available at: [www.jfcy.org](http://www.jfcy.org)

## **Part 1: Contact with the Police**

### **1. When might I come into contact with the police?**

The police may be in contact with you if they reasonably think that you have broken or are about to break the law (commit an offence). They may also contact you if they think you were a witness or have information about an offence. The police should protect and help all members of the public, so if anyone threatens or harms you, you can call the police for help.

### **2. Can the police stop me and question me for no reason at all?**

No. A police officer should not stop you for questioning without having a reason for thinking you have broken or are about to break the law. The police can ask you questions if they think you may have information, but you do not have to answer.

### **3. If the police stop me and ask for my name, address, and age, should I answer?**

It is a good idea to answer these questions politely. Then you should ask the police officer why he or she wants to talk with you. If the police believe you have committed an offence, they will sometimes let you off with a warning, but if you do not give your name, address, and age, they might feel that they must arrest you to get this information. You should ask the police officer if you are under arrest!

### **4. What if the police ask me other questions?**

You do not have to answer. You cannot be arrested for refusing to answer other questions.

### **5. What if the police stop my car?**

If you are driving, you must show the police your driver's license, car registration and insurance.

### **6. When can I be searched?**

The police can search you when you have been arrested or when they believe you are carrying illegal drugs or a weapon. The police can also search you when they believe you have liquor in your possession and you are under the legal drinking age. They can also search you if you let them. If the police ask if they can search you and you don't say anything, they may assume you don't object to being searched.

### **7. Can they search my house or car at any time?**

Not without your permission. The police can only search your house or car against your will if they have a search warrant or if they have a reasonable belief that an offence is being committed there and it would be impractical to get a search warrant. In some situations they must be certain that an offence is being committed in order to search your house.

### **8. What does that mean?**

If, for example, you were having a party and the police walked by and saw a jar of white powder, they could not enter your house without a search warrant because they would only have a suspicion that an offence (the possession of cocaine) was being committed there. In order for them to enter, they would have to have your permission or more evidence of an offence being committed or a warrant. For example if through a window, they saw someone in your house attack another person with a weapon, they would probably have enough evidence to enter without a warrant.



# THE POLICE (Cont'd)

## 9. If the police believe that I have broken the law, do they have to charge me?

No. The police can give you a warning or a caution.

## 10. If the police charge me with an offence, do they have to take me to the police station or detain me?

No. The police do not have to detain you. If they do not detain you, both you and your parent(s) will get notices that explain:

- the offence(s) with which you are charged,
- the date and time when you must be in court,
- the court's address, and
- your right to be represented by a lawyer.

The police can also ask you to agree to specific conditions in order to avoid being detained.

## Part 2: Being Under Arrest

### 1. When can I be arrested?

Only when a police officer believes that:

- you have committed an offence,
- you are committing an offence,
- you are about to commit an offence,
- they have a warrant for your arrest.

### 2. Will I always be arrested under these circumstances?

No. The police can decide whether or not to arrest you and to lay charges. In making this decision, they may look at such things as:

- your youth court record / criminal record (if you have one),
- previous police warnings or cautions to you, and
- your attitude and behaviour during your contact with the police.

### 3. What if I do not know if I have been arrested?

Ask. The police must tell you if you are under arrest and on what charge(s). If you are not under arrest, you are free to go on your way.

### 4. What happens when I am arrested?

The police can take you to the police station or give you an appearance notice.

### 5. If I am arrested, what are my rights?

You have:

- the right to know why you are under arrest, and
- the right to get and be represented by a lawyer without delay.

The police have to explain these rights to you in a way you can understand.

**MODULE 7 - Your Rights When Talking to the Police****ACTIVITY 1: Knowing Your Rights****STUDENT HANDOUTS**

**THE POLICE (Cont'd)**
**6. Do I have any other rights at the time I am arrested?**

You also have the following rights that the police should tell you about:

- the right not to make any statements (but you should, and must in some cases, tell the officer your name, address, and age). Remember: Anything you tell the police may be used later in court.
- the right to talk to a lawyer and your parents or another adult before you make any statements; and
- the right to have a lawyer and your parents or another adult with you if the police question or interrogate you, whether or not you decide to make a statement.

If you are arrested, the police are required by law to notify your parent(s) whether you want them to or not.

**Part 3: At the Police Station****1. When I get to the station, can I call someone?**

Yes. The police must allow you to make phone calls to a lawyer, and your parents or an adult friend who will help you.

**2. What if I don't know the name of a lawyer to call?**

You can:

- call a lawyer ("duty counsel") to give you free legal advice. If you are arrested or detained, ask the police for the phone number,
- call the local Legal Aid office (look in the white pages under "Legal Aid"),
- look under "Lawyers" in the yellow pages. If it is at night, find a lawyer in the yellow pages and then look up the lawyer's home number in the white pages,
- call your parent(s) or a friend to ask them to get a criminal defence lawyer for you, or
- call your provincial or territorial law society to see whether they have a service to offer you to a lawyer.

**3. Will I be questioned at the police station?**

Usually, yes, but not without having had a chance to talk to a lawyer first, and not without having your lawyer and your parent(s) or another adult present.

**4. Must I answer?**

No. You do not have to say anything, and the police must inform you of this right not to make any statements.

**5. What if I want to give a statement?**

Giving a statement means answering questions or talking to the police about what happened. You have the right to have a lawyer and your parent(s), or an adult with you before and while you make a statement. The police must tell you about this right. If you want to make a statement, you should wait until a lawyer who you have contacted is present, and you have talked to your lawyer in private.

If you "blurt out" a statement before the police officer has had a chance to tell you about these rights, they may still be able to use your statement against you. Even if they forget to tell you about your rights, a judge might agree that your statement can be used as evidence.



# THE POLICE (Cont'd)

## 6. The police are telling me that I can make a statement without talking to a lawyer first. Is this right?

It is legally correct. You can “waive” or give up your right to talk to a lawyer and/or your parent(s) before making a statement, but it is not a good idea to do this. Normally, the police officer has to either videotape you or get you to sign something saying that you agree to this. However, they may be able to use your statement in court even if they do not do this as long as your decision was voluntary.

## 7. If I do make a statement, how will it be used?

Anything you say that shows you were involved in an offence can be used against you in court. Refusing to sign a written statement will not stop it from being used against you in court. If you want to make a statement, you should wait until you have talked to a lawyer and the lawyer is with you.

Any statement you make to the police can only be used if it is given voluntarily. If you have made a statement without talking to a lawyer first, check with your lawyer after the statement to see if it was made voluntarily.

Note: If you make a statement in order to be eligible for an extrajudicial measure, your statement cannot be used against you in court.

## 8. When I have been arrested, can the police take my fingerprints or photographs?

With some offences, the police can take your fingerprints and photographs after you are charged. Usually, you will be given a notice telling you where and when you are required to go and have this done. You should not ignore this notice. You can be charged if you fail to show up.

## 9. What happens to my fingerprints and photographs if I am found not guilty?

The investigating police force can keep your fingerprints and photographs as well as reports relating to the incident. The police may destroy them after certain periods of time. There are also places (called repositories) where fingerprints, photographs and records may be kept longer. The law on this is complicated and may be different in different provinces and territories, so if you have any questions, you should consult a lawyer. As long as your photograph remains in the police files, it can be shown to witnesses during criminal investigations to identify suspects.

## 10. What can happen to me after we are finished at the station?

The police may have you sign a form that says you promise to appear in court at a certain time and date. After you sign the form, the police will let you go home.

## 11. Will the police always let me go home from the station?

No. The police can hold you if it is necessary to:

- find out who you are,
- get or keep evidence of the offence,
- keep you from committing the same offence again or a new offence, or
- make sure that you will appear in court.

If the police do hold you, they must bring you before the court within 24 hours or as soon as possible to have the court decide on whether to release you or continue to detain you until your trial.

**MODULE 7 - Your Rights When Talking to the Police****ACTIVITY 1: Knowing Your Rights****STUDENT HANDOUTS****THE POLICE (Cont'd)****12. Do my parent(s) have to know about my court appearance?**

Yes. They will get written or oral notice of your charge and the time and date you are to be in court.

**13. What if my parent(s) are not available or I am married?**

If your parent(s) cannot be found or they are not available, you may suggest a relative or adult who would help you. If you are married, your spouse may receive notice instead of your parent(s).

**14 . Can the police ever use physical force against me?**

Yes. An officer is allowed to use as much force as is needed to:

- enforce the law,
- prevent the escape of someone who is being arrested but only if the escape cannot be stopped in a less violent way, or,
- prevent a serious crime.

**15. Can the police use physical force against me to make me answer questions or give them a statement?**

No. If the police force you to give a statement, that statement cannot be used against you in court, and the force used may be considered an offence on the part of the police.

**16. What can I do if I have a complaint against a police officer?**

Talk to a lawyer about what happened. Your lawyer can help you make a complaint, lay charges against the police officer or sue the police for damages.

Call your provincial or territorial law society or community legal clinic to find out how to make a police complaint.

**17. It is difficult to prove that a police officer has treated me badly. What can I do to improve my chance of being believed?**

You can:

- talk to a lawyer immediately;
- go to your doctor if you have any cuts and bruises;
- take pictures of any visible injuries;
- notice whether anybody saw what the police did and try to get their name and telephone number so they can be called, if needed;
- get and write down the police officer's name and badge number. If you cannot get this information, take note of the police car number and the time of day;
- once you are arrested get someone you know and trust to be with you as soon as possible;
- as soon as you are released by the police, write out a description of what happened and date your report.

# EXTRAJUDICIAL MEASURES (DIVERSION): KEEPING YOUNG PEOPLE OUT OF COURT

**JUSTICE  
FOR CHILDREN  
AND YOUTH**



The *Youth Criminal Justice Act* says it is better to deal with less serious offences outside the court system.

**Extrajudicial measures include all consequences imposed by someone other than a judge.**

- The police can give warnings, cautions, or referrals to a community program.
- When the police think those measures are not adequate, an extrajudicial sanction can be used.
- Your lawyer can advocate for extrajudicial measures or sanctions for you.
- Police and Crown attorneys make decisions about extrajudicial measures and sanctions. Judges and justices of the peace may call a pre-trial conference to try to resolve the issues.
- Crown attorneys can refer young people to extrajudicial sanctions programs before or after the young person has been charged.
- Young people and parents should ask the police, Crown attorney or a lawyer about extrajudicial measures and extrajudicial sanctions programs.

### **To find these programs:**

***In Toronto, call 211***

***Throughout Ontario go to [www.211Ontario.ca](http://www.211Ontario.ca)  
(the connection to community-based services for youth)***

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# YOUTH RECORDS



## Who Can See Your Youth Records?

- You - any time
- Your parents - during your case and sentence
- Police and court - if you are charged with another offence before your record is destroyed
- Government employers - for security checks
- Sometimes your record may be given to people in charge of supervising you or for safety purposes. Examples are school officials and youth workers.
- If you think someone wants to see your record illegally, contact a lawyer right away.

**Youth Court Records:** Includes charges, assessments, pre-sentencing reports, convictions, and sentences.

**Police records:** May include any arrests, suspected criminal activity, convictions, fingerprints, photographs, 911 calls, interviews, witness and victim reports. The police can check these records any time.

This area of law is complicated. If you have any questions consult a lawyer:

Lawyer referral service: GTA (416) 947-3330

Elsewhere in Ontario: 1-800-268-8326

Justice for Children & Youth: GTA (416) 920-1633

Elsewhere in Ontario: 1-866-999-JFCY (5329)

[www.jfcy.org](http://www.jfcy.org)

## When Are Youth Records Destroyed?

A youth record does not automatically disappear when you turn 18; it depends on the type of offence and the sentence.

Absolute Discharge: 1 yr after being found guilty

Conditional Discharge: 3 yrs after being found guilty

Summary offences: 3 yrs after finishing sentence

Indictable offences: 5 yrs after finishing sentence

Murder, attempted murder, aggravated sexual assault: **Maybe never**

- After this period, your record will be destroyed unless you have committed another offence in the meantime. In which case, the time will start running again based on the new offence.
- If you get an adult conviction during this period, your youth record is never destroyed.
- If you get extrajudicial sanctions, the record of your participation in the program is destroyed after 2 years.
- If you are unsure about your record, call a lawyer.





# YOUTH RECORDS (Cont'd)

## A Youth Record May Prevent You From Being Admitted Into Another Country.

If you have records for drugs, weapons or violent crimes you may be denied access into another country.

## A Youth Record Can Seriously Affect Your Immigration Status In Canada.

If you are visitor, refugee claimant, or landed immigrant (not a Citizen) and you are convicted of a crime in Canada, you may face serious consequences, and could be forced to leave Canada. This is a very serious area of the law, contact a lawyer right away if you are arrested.

## A Youth Record May Prevent You From Getting a Job

It is not legal for an employer to ask about your youth record. It is legal to ask for a police record check. You make the request and the information comes to you. It's up to you if you want to show it to the employer.

Unfortunately, the decision you make may affect your chances of getting the job.





## MODULE 7 - Your Rights When Talking to the Police

## ACTIVITY 2

## What To Do If The Police Act Inappropriately

**Materials**

- Computers and internet
- Copies of *Making a Complaint - Getting to Know the Office of the Independent Police Review Director* (one per student)

**Teaching and Learning Strategies**

- 1. Explain to students that citizens have the right to make a formal complaint against the police. The Office of the Independent Police Review Director (OIPRD) opened on October 19, 2009 and is an arms-length agency of the Ontario Ministry of the Attorney General, staffed entirely by civilians. The OIPRD is accountable to the Attorney General, but the Independent Police Review Director is responsible for the day-to-day decisions. The OIPRD's goal is to provide an objective, impartial office to receive, process and oversee the investigation of public complaints against Ontario's police. In addition to processing and investigating public complaints, the OIPRD is responsible for setting up and administering the public complaints system.**
- 2. Distribute the handout, *Making a Complaint - Getting to Know the Office of the Independent Police Review Director*. Have students visit the OIPRD website ([www.oiprd.on.ca](http://www.oiprd.on.ca)) and browse the role and responsibilities of the OIPRD. Have students focus their research on the complaints procedures and record their answers in the space provided.**

**Teacher's Key*****Making a Complaint - Getting to Know the Office of the Independent Police Review Director***

All answers can be obtained from the following:

- Step-by-Step Guide to Making a Complaint: [https://www.oiprd.on.ca/CMS/oiprd/media/image-Main/PDF/OIPRD-MakeAComplaint\\_Eng.pdf](https://www.oiprd.on.ca/CMS/oiprd/media/image-Main/PDF/OIPRD-MakeAComplaint_Eng.pdf)
- Complaints: <https://www.oiprd.on.ca/CMS/Complaints.aspx>

**1. Who can make a complaint against the police?**

A complainant could be any member of the public who brings a forward a complaint about the policies or actions of a police department, or about the actions of a specific officer(s). It is not necessary to be a resident of Ontario to lodge a complaint. There are, however, a number of individuals who are specifically ineligible to lodge a complaint in certain instances. Individuals such as the Solicitor General, any employee of the OIPRD, or a member or employee of the Ontario Civilian Police Commission cannot make a complaint. Restrictions on the ability of certain individuals to make complaints in certain situations include restrictions on an OPP officer making a complaint about the OPP or a member or employee of a police services board making a complaint about their own service.

**2. What can you complain about?**

In determining whether or not you have sufficient grounds to lodge a complaint with the OIPRD, it is important to consider is whether or not the misconduct that is alleged in the complaint would constitute a breach of the police code of conduct. The code of conduct includes the requirement for police officers to act with honesty and integrity, to treat people with respect, to not abuse the extraordinary powers and authority police officers are granted, and to act in a manner that does not discredit or undermine public confidence in the police services. A legitimate complaint could also allege a breach of policy and service standards that guide police organizations.

**3. How do you make a complaint?**

There are a number of ways to submit a complaint to the OIPRD. A complaint form can be completed and filed at the OIPRD website, [www.oiprd.on.ca](http://www.oiprd.on.ca), sent through normal mail to the OIPRD office, faxed to the OIPRD office or submitted in person. In addition, a completed form can also be submitted to a regional, municipal or provincial police station in Ontario, which will then forward the complaint. If you need help filling out the form you can seek assistance from local community organizations or seek the advice of a lawyer or a legal clinic.

## ACTIVITY 2 What To Do If The Police Act Inappropriately (Cont'd)

### 4. What happens when your complaint is filed?

Once a complaint has been filed, it is the responsibility of the OIPRD to record and classify the complaint, determine whether the complaint should be investigated and if so, who should carry out the investigation. The majority of complaints will be investigated by the police, with the OIPRD overseeing the process. The investigation of the complaint will be carried out based on the standards developed by the OIPRD. The complainant and the OIPRD will receive important information during the investigative process, particularly how the complaint will be investigated, what cooperation is needed from the complainant in the investigation, how a decision will eventually be reached, and finally what action will be taken at the investigation's conclusion.

### 5. How will you be kept informed about what is happening with your complaint?

During the duration of the complaint process, regardless of whether the investigation is carried out by police or by the OIPRD, the complainant has a right to be kept informed and receive periodic updates. The complainant will be informed of how the complaint will be handled, what action may be taken, and how decisions on the complaint will be made. The OIPRD will provide updates to the complainant, whether that be through mail, e-mail or the secure OIPRD internet page.

### 6. What happens once your complaint has been investigated?

Following an investigation, the complainant will be informed of what the outcome of the investigation will be. There are a couple of possible outcomes that could result from the investigation – the complaint may be deemed unsubstantiated (not enough evidence to prove the complaint) and the complaint will be considered closed, or the complaint will be found to be substantiated, and a determination of whether or not the complaint is serious or less (not) serious will need to be made. This could lead to a decision by the police to improve or change their procedures, hold a disciplinary hearing or take disciplinary action against the officer(s) without a hearing, or the case may be referred for informal resolution if it was found to be less (not) serious.

### 7. What do you do if you are not happy with how your complaint was handled?

If a complainant files a conduct complaint against the police but is unhappy with how the complaint is handled, the complainant may be able to request a review by the OIPRD. Following notification of the decision made on the case, the complainant has 30 days to request a review of the decision by the OIPRD in instances where the Chief of Police/Commissioner of the OPP determined the complaint was unsubstantiated, or that the complaint is not of a serious nature. A complainant does not, however, have the ability to appeal a classification or investigation carried out by the OIPRD itself. The Request a Review form is available online, or a complainant can contact the OIPRD directly to request a form. The OIPRD will then determine whether the original complaint requires additional attention.

# MAKING A COMPLAINT - GETTING TO KNOW THE OFFICE OF THE INDEPENDENT POLICE REVIEW DIRECTOR (OIPRD)

Browse the website of the Office of the Independent Police Review Director (OIPRD), [www.oiprd.on.ca](http://www.oiprd.on.ca), and answer the following.

1. Who can make a complaint against the police?

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2. What can you complain about?

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3. How do you make a complaint?

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4. What happens once your complaint is filed?

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# MAKING A COMPLAINT - GETTING TO KNOW THE OFFICE OF THE INDEPENDENT POLICE REVIEW DIRECTOR (OIPRD) (Cont'd)

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5. How will you be kept informed about what is happening with your complaint?

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6. What happens once your complaint has been investigated?

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7. What do you do if you are not happy with how your complaint was handled?

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