



Why don't teenagers get “harsher” sentences?

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Kim is 14 years old, has never been in trouble with the law before, and stole a bag of candy from a store on a dare from a friend. Jaz is 15 years old, was sentenced for theft under \$5,000 (shoplifting) six months ago, and has now pleaded guilty to another charge of theft of an expensive item from a store. And Steve is 17 years old, has a history of violent offences, and has just been convicted of assault causing bodily harm.

When it comes to sentencing, how will each of these young persons be treated?

The [Youth Criminal Justice Act](#) (“the Act”) sets up a separate system for the treatment of youths aged 12 to 17 who are facing criminal charges under federal laws like the [Criminal Code](#) and the [Controlled Drugs and Substances Act](#).

“Diminished moral blameworthiness”

This system takes into account that due to their age young people are more vulnerable, less mature and may have a lower capacity for moral judgment than adults. Because they are not fully developed, young people are presumed to have a less culpability than adults.

The Act is intended to create a youth criminal justice system that:

- protects the public by holding a youth accountable,
- promotes rehabilitation and reintegration of the youth into society, and
- supports the prevention of crime.

The goal of the Act is to treat young people fairly and yet hold them responsible for their actions. It encourages the repair of harm done to victims and the community.

Sentencing options

[The Act requires a judge to sentence a young person differently from an adult.](#) To achieve its goal of rehabilitating and reintegrating youths back into society it provides a wide range of

sentences, including a reprimand, discharge, fine, compensation, restitution, community service, probation for up to 2 years, and:

- an intensive support and supervision order that provides closer supervision and support than a probation order
- a custody and supervision order for up to 2 years (2/3 of this sentence is spent in custody and 1/3 is spent on conditional supervision in the community)
- for certain violent offences, a custody and supervision order for up to 3 years (part spent in custody and part on conditional supervision in the community)
- a deferred custody and supervision order for up to six months (the sentence is served in the community as long as the youth complies with conditions)
- a custody and supervision order of up to 10 years for first degree murder and up to 7 years for second degree murder
- an intensive rehabilitative custody and supervision order (usually for up to two years but may be three years for certain serious offences). This special sentence for serious violent offenders is intended to provide a youth with the treatment they need.

Many of these sentences will include participation in therapeutic programs.

The Act only permits a judge to sentence a youth to custody (jail) in certain cases - for example, for violent offences. And every order of custody must be followed by a period of community supervision to help the young person to avoid re-offending in future.

In rare cases where a youth is at least 14 years of age and has been found guilty of an offence where an adult could be imprisoned for two years or more (e.g. a serious violent offence), Crown Counsel (the prosecutor) may apply to court to have the youth sentenced as an adult. If such an order is made, then the sentencing options under the Act no longer apply and the youth is sentenced under the Criminal Code.

Sentencing Kim, Jaz and Steve

Kim is young, has never been in trouble before, and did something stupid on a dare from a friend. The police or Crown Counsel may decide to take “extrajudicial measures” outside the court system rather than pursue a criminal charge of theft. This could mean taking no further action because being taken home by police and his parent’s response was enough to show Kim the seriousness of his actions. It could also mean giving him a warning, or referring him to a community program to help him deal with any underlying problems.

Because this is Jaz's second offence, she has been charged with the criminal offence of theft under \$5000. After pleading guilty she might be sentenced to a period of probation where she would be assigned a youth worker to monitor her and perhaps refer her for counselling or other programs. Her probation order could include a condition that she not enter the store where she committed the theft.

With his history of violent offences, Steve could be sentenced to a custody and supervision order. If he is suffering from a mental or psychological disorder or an emotional disturbance for which treatment is available, then an intensive rehabilitative custody and rehabilitation order might be imposed.

[*The Youth Criminal Justice Act Summary and Background \(Government of Canada\)*](#)

[*Youth Sentences \(Government of BC\)*](#)

[*Being Charged with a Crime: Youth and criminal law \(Justice Education Society\)*](#)

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