



|                     |                   |                                 |                             |                    |
|---------------------|-------------------|---------------------------------|-----------------------------|--------------------|
| <b>Français</b>     | <b>Contact us</b> | <b>Help</b>                     | <b>Search</b>               | <b>Canada Site</b> |
| <b>Justice Home</b> | <b>Site Map</b>   | <b>Programs and Initiatives</b> | <b>Proactive Disclosure</b> | <b>Laws</b>        |

## YCJA Explained

Modules > Youth Sentencing > Explanatory Text

Summary Diagram

## Purpose of Sentencing (Subsection 38(1))

### Table of Contents

[How to...](#)

[Overview](#)

[Modules](#)

[Reference](#)

[Checklists](#)

[Legislation](#)

[Explanatory Text](#)

[Forms](#)

[Resource Manuals](#)

[YJ Home](#)

The purpose of sentencing is to hold a young person accountable for the offence committed. This is accomplished by imposing just sanctions that have meaningful consequences for the young person and promote the rehabilitation and reintegration of the young person into society. A sentence that complies with these requirements can make a contribution to the long-term protection of the public.

Holding a young person accountable must reflect the fact that the young person is not an adult. The accountability must be consistent with the greater dependency of young persons and their reduced level of maturity (subparagraph 3(1)(b)(ii)).

The way to hold a young person accountable is through just sanctions that have two objectives: (a) meaningful consequences for the young person, and (b) promotion of the rehabilitation and reintegration of the young person. A sentence that is not directed at achieving both of these objectives is not a valid sentence. *Just* sanctions are those that are in accordance with the principles of sentencing in subsection 38(2) and the restrictions on custody in section 39. The specific sanctions that are available to the court are set out in section 42.

The court must consider what consequences would be meaningful for the individual young person before the court. Consequences that are meaningful may vary depending on the particular young person, but they must be consistent with the principles of sentencing, such as the principle of proportionality. In addition, if a custodial sentence is being contemplated, it is important to recognize that non-custodial consequences, such as repairing the harm done to the victim, are more likely than custody to be meaningful for many young persons.

A valid sentence must also promote the rehabilitation of the young person and his or her reintegration into society. This part of the purpose statement recognizes the fundamental importance of rehabilitation and reintegration while also recognizing the need to be realistic about what can be achieved through sentencing. Ideally, youth sentences will result in successful rehabilitation and reintegration of the young person. However, research in this area indicates that there are numerous factors beyond the control of the court that can influence the chances of success with a particular young person. The court is required to choose a sentence that will promote, not necessarily ensure, rehabilitation and reintegration. It should be recognized that imposing a sentence that has terms and conditions that are likely to be breached would not be consistent with promoting the rehabilitation of the young person and, therefore, would not be a valid sentence.

A sentence that achieves the objectives of meaningful consequences and the promotion of the rehabilitation and reintegration of the young person can make a *contribution* to the *long-term* protection of the public. The statement of purpose recognizes that such a sentence can have a role, along with many other factors, in the protection of the public and that the expectations as to its potential impact on public protection must be long-term.

The YCJA sets out distinct sentencing provisions for young persons which are different in important respects from the sentencing provisions for adults in the *Criminal Code*. Denunciation, specific deterrence, general deterrence, and incapacitation, which are sentencing objectives for adults under the *Criminal Code*, are not sentencing objectives under the YCJA. Section 50 of the YCJA states clearly that the purpose and principles of sentencing of adults under the *Criminal Code* which are contained in sections 718, 718.1 and 718.2 of the *Criminal Code* do not apply in proceedings under the YCJA, except for paragraph 718.2(e) which deals with Aboriginal offenders.

[Download PDF Version](#)

[Checklist](#)

[Previous](#) | [Next](#)