

What role do Canadian citizens and organizations play in the fairness and equity of Canada's justice system for youth?

WHAT'S IN THIS SECTION

In this section, you will read about how citizens participate in the justice system to help make it fair and equitable. You will find:

- A true story of one citizen who was chosen for jury duty.
- A description of two groups that work with people in trouble with the law.
- An interview with Elders about their perspectives on justice.

These students in Ontario visited a courtroom as part of a program with their school district to learn about the justice system. **Think critically: How important is it to know the responsibilities of citizens in the justice system, in your opinion?**

What are you looking for?

As you read the section, look for:

- The roles and responsibilities of citizens in the justice system, including the roles of jurors, advocates and Elders.
- Opinions about problems with the justice system and suggestions for how to reduce crime.



What responsibilities do jurors have?

What's a jury?

- Under the YCJA, a person 14 years of age or older may choose to be tried by a judge and jury for certain serious offences, such as assault or murder.
- For these offences, juries always have twelve people and all twelve must agree on the verdict. Their decision must be unanimous.
- Anyone 18 years of age and older who is a Canadian citizen is eligible for jury duty, with some exceptions. For example, people convicted of some crimes are not eligible.
- Serving on juries is considered a duty of Canadian citizens.
- If you are summoned to jury duty, it's your responsibility to appear at the courthouse on time. You must make whatever arrangements are necessary for transportation, time off work or classes, and rebooking appointments.
- Employers have to give you time off for jury duty, but don't have to pay you.
- People are excused from jury duty only if they can demonstrate that it would cause them undue hardship.

DID YOU KNOW?

Here are some terms jurors need to know.

Defence

The defence includes the evidence that supports the innocence of a person accused of a crime. In a courtroom, the lawyer who represents an accused person presents the defence. The defence can include witnesses, and physical evidence such as DNA samples and objects.

Prosecution

The prosecution includes the evidence that supports the guilt of an accused person.

Sequester

To sequester means to remove from contact. Juries are sequestered to ensure they consider only the evidence presented in the courtroom.



CRITICAL THINKING CHALLENGE

What advantages and disadvantages might a jury have for an accused person?



To what extent are the rules for jury duty fair and equitable, in your opinion? What factors do you need to consider?

Jurors swear an oath to use only the evidence and the law to reach a verdict. **Think critically:** What does this oath indicate about the impact of jurors on the fairness and equity of the youth justice system?





On Jury Duty

This is the true story of one Albertan who was called to serve on a jury in 2005...

One day, I got a letter telling me, "You have to appear at the law courts for jury duty. If you don't show up, you'll face a fine or jail time."

I showed up.

I found myself sitting in a room with about 200 other people. Two lawyers were also there: one for the defence and one for the prosecution.

First, they showed us the accused person, who was there in person, to make sure none of us knew him. Then they began drawing names from a little barrel. Mine was the second name called. When I stood, the lawyers asked me what I did for a living — that was all. First one lawyer, then the other, got to say if they wanted me as a juror. If either had said no, I could have left, but they both said yes. I sat down again and waited. They went through about three dozen people before they had a jury of twelve.

The trial began on a Wednesday morning. We all stood as the judge entered the courtroom and then we each swore an oath to do our duty.

The judge spoke to us for at least fifteen minutes. I remember her saying, "There's no such thing as 'not really guilty,' or 'kind of guilty.' It's either 'guilty' or 'not guilty.'" She told us to remain open-minded when we listened to the evidence. We were not to make judgements until the very end.

We listened to evidence, taking notes constantly, all that day.

Jurors remain anonymous during and after trials, which is why the juror in this story has no name or photograph. **Think critically:** In what way does the anonymity of jurors help or hinder justice?



On Thursday morning, we began deliberating. From that point on, no one was allowed to speak to us — not even the jury guard.

NOT GUILTY	GUILTY
6	6

We began by taking a vote. Six of us thought the accused person was guilty, and six thought he was not. I thought, “Uh oh, we’re going to be here for a while.”

We talked over the evidence and drew up a timeline to keep some of the facts straight. Two or three hours later, we took another vote. This time, three said guilty and nine said not guilty.

NOT GUILTY	GUILTY
9	3

We had lunch brought in. I think the jury guard was surprised that it was taking us so long. Eventually we had dinner. About 9:00 p.m., we started thinking, “We’re not going to come to a decision tonight.” So we were sequestered. That meant that our jury guard, on behalf of the justice system, had to find a motel.

We were each allowed one phone call before we left for the motel. I wasn’t allowed to speak directly to my husband, Bruce. I had to talk to him through the jury guard. So I said to the guard, “Can you tell Bruce that I’m not coaching soccer tonight? Oh, and can you tell him I love him?” So the guard tells my husband, “Uh, Bruce? I love you.”

They put us on an unmarked bus and drove us to the motel. We each headed off to our own rooms. We couldn’t read the newspaper, our TVs were unplugged, we had no computers — we had no access to the outside world.

Friday morning, back in the jury room, eleven of us were thinking that the defendant was not guilty. But there was one woman who was adamant that he was guilty. And by the end of Friday, we realized we could not agree. This meant the accused person would need a new trial. I felt like a failure, but the judge was kind and thanked us for our efforts.

As a juror, you feel a huge responsibility. Someone may go to jail — or not — because of what you decide.




NOT GUILTY	GUILTY
11	1

connect to the big ideas

1. You have just read about the experience of a person who served as a juror. What evidence can you find that the procedures surrounding juries attempt to treat accused people fairly? What part of the procedures do you think is most important in helping achieve justice for the accused? Why?
2. Based on the story, to what extent can jurors influence how hard the justice system is on someone? Use your conclusion, with supporting evidence, in the presentation for your chapter task about justice for youth.

DID YOU KNOW?

Have you ever heard the saying, “ignorance of the law is no excuse”? It means that citizens have a duty to know the law. If you do something illegal, but do not know it’s illegal, you can still be charged and convicted of an offence.

 **More than 2500 people volunteer with the John Howard Society across Canada. How do you think volunteering with an advocacy group might help you influence the fairness and equity of the youth justice system?**



Brad Odsen was executive director of the John Howard Society in Alberta at the time of this interview in 2007.

What do justice advocacy groups do?

What are advocacy groups?

- Canada has two major citizen-led organizations involved in the justice system: the John Howard Society and the Elizabeth Fry Society.
- These organizations work independently of government. They try to solve the underlying reasons for crime.
- They provide public education about laws and the justice system, including the Youth Criminal Justice Act.
- They work with youths and adults who have broken the law to help them return to their communities. For example, they may help them find jobs and places to live. Sometimes they arrange meetings between victims and offenders to help everyone move forward.
- They stand up for the rights of youths and adults accused of crimes.
- They call for measures to improve the fairness of the justice system for people accused of crimes and those harmed by crime.
- The Elizabeth Fry Society focuses on justice issues for women and girls. The John Howard Society works with men, women, boys and girls in trouble with the law.

What is the role of the John Howard Society?

We are like a conscience for the justice system.

There has been a tendency over the last twenty to thirty years for the justice system to respond to crime by passing more laws, harsher laws and harsher penalties. The John Howard Society says, “Let’s look at the evidence. What do we want to accomplish? How do we make our communities safer?”

The federal government really hasn’t helped with things that prevent young people from getting involved in crime: things like adequate housing, jobs, literacy, food in your belly, things like that. These are pretty fundamental things, and they’re missing from the lives of many people who end up on the wrong side of the law.

For every dollar spent on programs to prevent crime — like community development and recreation for young people — society would save \$7 to \$20 on the justice system that deals with crime.

Prevention makes good sense economically, it makes good sense socially, and it’s the right thing to do. But it’s not the politically popular thing to do. Politicians want something quick and easy. They want to win the next election.

What is the role of the Elizabeth Fry Society?

Our philosophy at Elizabeth Fry is that the justice system needs to look at each case individually. Every person who breaks the law is an individual and her situation is individual. Every person deserves to be treated in a non-judgmental way, and needs a safe environment to heal and grow.

People can make bad choices and end up in custody. But at some point, they are going to re-enter society, and society needs to help them become better citizens in the future.

How can that person learn and change so they don't go through another cycle of crime? Do they need to go back to school? Do they need help in another area? It might be a situation where we can help someone get a better job — a person may have dropped out of school because she had six brothers and sisters, and had to work at the local grocery store to help support her family.

Justice is not about putting people in a jail where they just work on their own anger. That isn't going to solve anything or reduce crime.



Jacqueline Biollo was executive director of the Elizabeth Fry Society in Edmonton at the time of this interview in 2007.



To what extent do Brad Odsen and Jacqueline Biollo agree on what goals the justice system should have?

connect to the big ideas

1. Research one of the advocacy groups in this section to find out more about how they work to prevent crime and reintegrate offenders into society. How is their work related to citizenship — to building a society where all Canadians belong?
2. Consider your opinion so far on whether the youth justice system should be harder on young offenders. Based on your opinion, would you consider volunteering with a group such as the John Howard Society or the Elizabeth Fry Society? Explain your answer by comparing your opinion with the goals and work of these two groups.



How do Elders contribute to the fairness and equity of youth justice?

What role do Elders have in the justice system?

Under the YCJA, young people can face consequences from Youth Justice Committees. These committees exist in communities where volunteers agree to work with young offenders.

Youth Justice Committees reflect the idea of sentencing circles. Sentencing circles come from the traditions of some Aboriginal peoples, whose systems of justice can also include consequences such as banishment. The committees act on the idea that breaking a law harms everyone in a community, and that the community must become involved in solutions. Any community can have a Youth Justice Committee.

As respected members of their communities, Elders play an important role in this approach to justice.



Elder Rita Auger of the Bigstone Cree Nation works with the Youth Justice Committee for Wabasca and Desmarais in Alberta. Traditionally, Elders are respected for their experience and knowledge, and for acting in the best interests of their entire communities.

When the committee meets, we begin with a smudging ceremony to get things started in the right direction. The ceremony represents truth, peace and understanding.

Traditional knowledge, language and culture are very important, especially for a young person who needs guidance and direction. We strive to show that person compassion. We strive for truth and honesty. We strive to make that person welcome and understand that they belong to our community.

This is the key to our approach: our culture and most importantly our language. They are our own. They are part of our belonging and identity, and they are part of the person who seeks our guidance.

Culture is something that comes whole, not in parts. We look at the four great directions: the physical, spiritual, emotional and mental aspects of a person's development. We all of us need balance among these directions, and this at times is not easy. If you have negative influences in your life, it is tough to regain balance.

Culture is the root of our identity. We have to remain distinct in this country we all call Canada. The best way is to practise our traditions, values and of course our language.

It is of utmost importance to remember that traditional cultural ways and values are dynamic. They can be re-expressed in new forms. Aboriginal Elders know this better than anyone, as more of our people seek their advice and counsel, healing and inspiration, interpretation of the present and direction for the future.

An Elder represents a person molded by traditional culture — who that person can become. Elders' quality of mind and emotion, their profound and refined morality, and their high level of spirituality deserve careful attention. They deserve to be understood and followed. When you approach an Elder, it must be done with complete humility and utter respect. There can be no rush: patience is a virtue.



Darrell Anderson Gerrits, an author of this textbook, interviewed Elder Rita Auger and translated what she said from Cree into English. He is a member of Bigstone Cree Nation in Alberta.

These Siksika drummers are performing at a pow wow in Alberta. The drummers sit in a circle, a shape that represents an important idea in the worldview of many Aboriginal peoples. **Think critically:** In what way is a Youth Justice Committee a "circle"?

connect to the big ideas

1. What aspects of your identity would you want the justice system to take into account? With a small group, discuss what individual and collective identity means to you. Create a paragraph or a visual about factors that affect your personal identity, and why they should matter in the justice system.
2. Invite an Elder to speak to you about their traditional system of justice. Your teacher can help with protocols around contacting and consulting Aboriginal Elders. Work out a list of questions to ask the Elder in advance. What do you want to know about their perspective on justice, fairness and equity? How could this help you with your chapter task?