



The Students
Commission
Centre of Excellence for
Youth Engagement



THE JUSTICE SYSTEM WE WANT

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Canada's Criminal Justice System (CJS) is flawed; its practices are inequitable and unfair, often demonstrating bias, discrimination and racism. Youth believe that with the input of diverse Canadians we can reimagine and rebuild a justice system that serves all Canadians, and ensures fair and equitable treatment regardless of our diverse experiences and identities.

The Justice System We Want theme team discussed: sentencing and responses to crime, overrepresentation of indigenous peoples and people with mental health issues in Canada's CJS, as well as restorative justice and supports for victims of crime.



This tree has all of the dreams we have for Canada in the next 150 years. These include things like peace and a fair justice system.

SUMMARY

In recent months, it has become clear to many Canadians that Canada's Criminal Justice System (CJS) is not a fair and unbiased system, and that some people are facing disadvantages within the system. At the #CanadaWeWant Conference, youth discussed how to improve our justice system and create the justice system we want.

Personal Circumstances and Context

We believe that the CJS should take into account the offenders' circumstances and lived experience, as well as the context of the crime when sentencing offenders. Sentencing can take many forms; the offender must be held accountable for their action, but also be provided opportunities for healing and rehabilitation.

Addressing Root Causes via Programs and Partnerships

The CJS must focus on addressing root issues of crime, like poverty, mental health and cognitive functioning issues, and trauma, to decrease the number of Indigenous people and people with mental health issues in the CJS. The CJS currently cannot support all of these individuals and need to work with other systems and organizations to do so.

Healing and Closure

For the sake of both offender and victim, it is important that the CJS focus on healing and closure. This may involve using alternative approaches to justice, like restorative justice, that focus on re-building relationships and community.



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Acknowledgments



Thank you first to the courageous young people who traveled from coast to coast to coast to build the #CanadaWeWant so we can have the #CanadaWeNeed.

With representatives from First Nation, Métis and Inuit communities from across the country, we humbly gathered on the traditional territories of the Haudenosaunee, the Ojibway/Chippewas, the Anishinabek, and currently the Mississaugas of the New Credit First Nation. We were also surrounded by Indigenous communities: to the North were the Chippewas of Georgina Island; to the East are the Mississaugas of Scugog Island; and to the West are the Chippewas of Kettle and Stoney Point. Through Indigenous-led ceremony, acknowledgement and respect, we recognized the enduring presence of Indigenous Peoples on this land, and were very grateful to have the opportunity to use it as a meeting place, and a space for knowledge sharing.

Thank you to Justice Canada for supporting the participation of youth from across the country and for asking us to provide our voice on this topic. Thank you to YMCA Cedar Glen, The Students Commission of Canada, Sharing the Stories Research and Evaluation Platform, Centre of Excellence for Youth Engagement, RBC Foundation, UNICEF Canada, the Government of Canada and the many other funders of the #CanadaWeWant Conference 2018, and all of the organizers, elders, adult allies, facilitators, and most of all the wonderful youth participants. Thank you to The Students Commission Conference Planning Committee for their hard work. Thank you to the federal government representatives and policymakers that attended the Conference and will continue to support the development of A Youth Policy for Canada.

Executive Summary

Youth from all across Canada, including far northern remote communities, and representing diverse identities and experiences, explored Canada's Criminal Justice System (CJS) in depth. We agreed that Canada's justice system is biased against certain people, which leads to unfair sentencing, increased trauma, and re-offending. We want Canada's CJS to focus on healing, rehabilitation and closure.

Sentencing and Responses to Crime

The CJS is a racist system; people are treated inequitably, often based on race, ethnic identity, or social location. Unfair trials and inequitable sentencing due to judge and jury bias ensure that certain people are consistently disadvantaged by the CJS.

We believe that before someone is sentenced, the court should look into the background of the person, as well as why the person committed the crime (e.g. mental health challenges, poverty, addiction, past trauma). The past of an offender, including lack of parental and familial support, loss of a family member, lack of resources, lack of services, or the mental health and cognitive functioning of an individual may require a sentence that focuses on support and rehabilitation, instead of punishment. For example, people with Fetal Alcohol Syndrome Disorder (FASD) do not grasp consequences and may not have understood that their action could hurt somebody. We believe that the CJS needs to demonstrate compassion in order to be fair.

Youth recognize that sometimes punishment, like incarceration, is necessary, for example in response to a violent crime, and act as a deterrent to criminals. However, incarceration can be traumatic and lead to offenders experiencing increased emotional distress. When given the option, we feel courts should apply sentences that can help the community and produce a positive impact overall.

Offenders need to be educated on the options they have when it comes to sentencing, such as utilizing different courts. In some Indigenous cultures, they believe that someone needs to have healing journey before they can return to their community. Indigenous courts, for example, often use alternative sentences, which focus on providing love and support in order for the offender to heal from the distress they have caused. Restorative Justice focuses on healing between victim, offender, and community through mediated discussion and sharing circles.

Victims also need a sense of closure which cannot be achieved without knowing that the justice system is sentencing people in ways that are just and fair, which takes into account diverse lived experiences and strives for rehabilitation to decrease recidivism.

Many people demonstrate little compassion for people released from the CJS, even when the crime was only a minor offence. This can make it difficult for people to re-enter society and leads to isolation, anger, and cycles of re-offending. People in the system need comprehensive support before, during and after being in the system. To help offenders stay out of the CJS after release requires teaching them skills they lacked and supporting them to address or cope with the challenges they face in their lives.

Overrepresentation of Indigenous Persons

Indigenous people are overrepresented in the CJS; for example, Indigenous people are more likely to be victims of crime, with 28% of Indigenous people likely to be victimized compared to 18% in the non-Indigenous population (2014). Higher rates of victimization among indigenous people are related to the increased presence of other risk factors, such as childhood trauma, perceived social disorder in one's neighbourhood, homelessness, drug use, and poor mental health.

Indigenous adults are also almost 9 times more likely (26% vs. 3%) to be incarcerated in prison than non-Indigenous adults. Youth discussed the causes of this overrepresentation, notably integrational trauma, addiction, poverty, discrimination, over-policing, structural racism, poor access to education, and negative peer influence. Youth agreed that providing services for young people and families, such as better foster care and resources to struggling families, can decrease the overrepresentation of Indigenous people in the CJS. Other ways the government and the CJS can help overrepresentation is by taking lived experiences and trauma into account when sentencing, giving warnings and second chances to offenders, and increasing diversity among CJS professionals and participants, including in the jury, lawyers, police and also policy makers. More indigenous persons involved in policy-making will lead to the CJS better addressing the root causes of crime that are most important to their community.

Overrepresentation of Persons with Mental Health and Cognitive Functioning Issues in the CJS

Unfortunately, a disproportionate number of people with mental health and cognitive functioning challenges are engaged in the CJS. In 2014-2015, 27.6% of offenders had a mental health need. About half of the people in custody have a mental health issue. We believe that mental health issues are not a criminal issue, but a public health issue, and should be dealt with in the public health space. The CJS must start working with other institutions and organizations to prevent people with mental health and cognitive functioning challenges from entering into the CJS. However, for those with mental health issues who are in custody, the CJS should provide treatment options, for example a psychologist and/or psychiatrist, as well as programs and services that help people with mental health issues develop coping strategies. In addition, we know that many people with mental health issues face a revolving door of services and the CJS, meaning they move from one service provider to another trying to access suitable services, but ultimately end up re-entering the justice system. Relevant and effective mental health services within and connected to the CJS may mean decrease re-offending, especially if services on the inside connect with services in the community.

How to reduce overrepresentation of people with mental health/cognitive functioning issues in the CJS:

- To reduce fetal alcohol spectrum disorder (FASD), provide pregnant women with healthy options and activities, programs, and services to help them avoid alcohol
- Provide education/awareness materials and services - Let people know that there are resources to educate peers so they can help their friends and others.

Everyone is responsible for helping peers and loved ones cope with mental health issues

- The CJS needs to work with other systems (e.g., education and health) and organizations to address mental health issues
- Mental health issues need to be addressed early – provide supports, prevention and intervention activities in schools and community centres
- Police, EMS, and others working in CJS should be able to identify mental health and cognitive functioning issues, this may include bringing people with mental health issues to a safe environment, and then to mental health expert; police, EMS, and others working in the CJS should also be trained to deal with those with mental health issues
- Sentences for minor offences should be set in mental health facilities and mental health services should be provided in prisons/jails
- There need to be more accessible resources to support people with mental health and cognitive functioning challenges; people need options other than/in addition to medication

Restorative Justice

Restorative Justice (RJ) focuses on healing following a crime through mediated or facilitated interaction between victim, offender, and community, if appropriate. In RJ, the offender is held accountable for their crime through direct admission of it to the victim and community. If both parties are willing, they can utilize restorative justice to meet one another, discuss the harms done, create understanding, apologize for the crime and come to a resolution that both victim and offender agree upon. Canadian youth believe that RJ should be an option during the processing of any offender, regardless of the crime they committed, as long as the victim agrees. Unfortunately, RJ is not regularly utilized due to lack of awareness of its existence and education on the topic. We feel that RJ should be incorporated in the education curriculum especially in high school, as it is important for Canada's youth to know that there are many roads that lead to justice.

RJ is an opportunity for personal growth for both the offender and victim(s); it provides a space for both parties to accept the crime and its resulting harm and move forward. It takes a great deal of courage to face the person you've wronged, and it also takes a person of character to forgive someone. When both parties agree to utilize RJ, the end results are transformational. There are many manifestations of RJ. Having the offender connect with the community could help restore trust with the community/person(s) and offender. Helping the community that was affected is more beneficial than sitting in jail; it brings healing and closure to all parties. RJ could play an important role in ending the cycle of reoffending and lead to a decrease in incarceration numbers.

Victims Supports

Victims are not a prominent concern of or well integrated into the CJS. While victims have a bill of rights, they are not currently read their rights; Canadian youth think that should change. When a victim reports a crime, they should automatically be read their rights in the same way an offender is read their Miranda Rights. It's important to consider the nature of the damage done to victim(s) and the community as these damages can affect the victim(s) emotionally, mentally and/or physically. Youth want victims of crime to feel that their experiences matter and that they will be supported throughout the justice process.

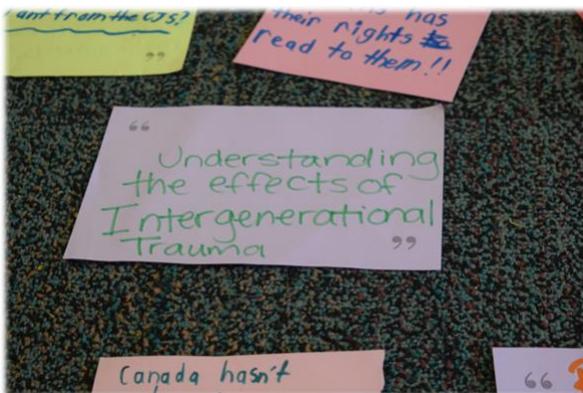
As a result of the crime, victims may experience emotional trauma. The CJS should provide supports, for example a therapist or counsellor, to support victims emotionally and mentally, a liaison to help them navigate the CJS, and a safe space or safe way to engage with their case (ie. participate in the trial, receive updates about the trial and the offender, etc). With these support services, victims may heal faster.

When a victim is going through a healing process they may need time for self-care, which may mean not attending work, school, or other social settings. In that case, victims should receive restitution for the harm done and the time missed at work or school. That amount of restitution should depend on what the victim asks for and what the offender can pay. Through restitution, the victim will feel supported financially.



The justice system is a racist system and the youth of Canada feel they need to have more diversity in the court rooms especially so all people can have a fair trial.

People with mental illness are put into the criminal justice system when they have mental breakdowns. People with mental issues should be put into their own system.



People who are indigenous make up 33% of accused of committing homicide.

#CANADA WE WANT

The change we want to see:

Canada's Criminal Justice Systems is fair and just **for all**; it does not make racist or discriminatory decisions based on bias and stereotypes. Instead, the CJS focuses on addressing root issues of crimes, supporting offenders and victims, and strives towards healing and closure.

In order to make these changes, we need youth to advocate for them. Youth, therefore, need to be more educated about the CJS, including their rights, navigating the system, practices within the system, like diversion and alternative courts and sentencing. We need accessible resources to help others learn about the CJS as well.

The way we want to get there (Activities):

Start Justice Councils at high schools or host regular workshops at local youth centres and community centres.

The way we want to get there (Activities):

Raise awareness about justice-related services as well as alternative courts and sentences, like restorative Justice, through campaigns and educational materials.

The way we want to get there (Activities):

Be Justice Ambassadors—tell our peers and friends about what we learned and the resources we created. Build connections with elders, adult allies, community leaders to get the word out!

What we need to get there:

Community buy-in: school supports, support from our elders and other adult allies, space and other in-kind resources from community and youth centres, engagement with police and other CJS professionals.

Support from the Students Commission and Justice Canada to create resources and tools, and to bring us together in conversations.

The way we want to get there:

Engaging our communities in making change, this includes our neighbourhoods, our schools, our governments and councils, and local organizations that care about the same things we do.

Create educational resources and share them on social media and in workshops. Encourage other young people to take action in their own communities.

What are the values and principles that ground our recommendations?

Everyone deserves fair treatment.

We need to be educated about our options in the CJS so we can select the option that is best for victims and offenders.

Offenders need to be held accountable, but they also need to be supported to improve their lives and themselves to stop cycles of re-offending.

When at all possible, the goal of justice should be to heal, to rehabilitate, to create closure, and to re-build connections between offender, victim, and community.

Our Recommendations

In the Justice System We Want:

1. The CJS must focus on working with the education system, the healthcare system, and social services to address the root causes of crimes, and break the cycle of reoffending.
2. The CJS must provide mental health services to offenders both within and outside of detention facilities to ensure that they receive the support they need to break cycles of offending.
3. The CJS must utilize restorative justice to connect victims, offenders, community and the land to lead to healing and healthier, stronger relationships.
4. The CJS must support victims throughout the justice process; they must be informed of their rights immediately upon contact with the police and be provided with individualized supports throughout the process. These supports must be extended to victims' families as well.
5. The CJS needs to be more diverse; it must represent Canada's diverse populations, including Indigenous and LGBTQ+ populations, in all areas of employment, for example legal professionals, policy makers, and law enforcement.

Conclusion

In order to build the justice system we want, the Government of Canada must move forward with these recommendations. We as youth hope that the people in the justice system and victims of crime can be treated in a humane way. We recognize that different cases and people can be treated differently, but want all cases to result in fair, just sentences that aim to heal wounds, decrease trauma, and rebuild relationships across offenders, victims, and community.