

**AN INTRODUCTION TO THE
YOUTH CRIMINAL JUSTICE ACT
CANADA**

TRAINERS' MANUAL

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Summary of YCJA Training Plan

The Nova Scotia Department of Justice received funding from the federal Department of Justice to hire a training coordinator in December 2001 and to develop training materials for the introduction of the Youth Criminal Justice Act (YCJA). The new Act will come into force in April 2003.

The YCJA training has three purposes:

- to familiarize participants with the key changes to youth criminal legislation brought about by the YCJA, with special reference to those areas of the legislation which have the highest impact on the participant's professional group
- to demonstrate the link between the Nova Scotia Restorative Justice Program and the YCJA, reinforce the principles of Restorative Justice and provide information on the benefits of the program
- to introduce resources such as the Pocket Guide which can continue to be used by participants after the training is complete

Who the training is for

The following list provides an estimate of the number of people, by participant group, who need to be given training on the new Act.

Total Participants	Corrections	400
	Courts	500
	Crown Attorneys	100
	Legal Aid Lawyers	100
	Municipal Police	1000
	Restorative Justice	50
	Victim Services	50
	Miscellaneous	300
	Total	2500

Factors that influenced the training strategy

The YCJA is complex legislation. The approach to training is to present the material clearly, within a consistent framework. In an effort to give participants the basics they need, we have endeavored to make the training materials comprehensive, clear and technically precise. In addition, materials are in a format that is designed to be readily accessible after the training is over.

This training provides an opportunity to reinforce the essential role that the Restorative Justice Program plays in Youth Justice in Nova Scotia.

Training strategy

To be successful, this training strategy depends upon a strong partnership between the organizers and each participant group. The Department will organize and conduct train-the-trainer workshops for representatives from each of the participant groups. Each person trained will be responsible for the training of their colleagues in their home organization. Once trainers have received their training, they will return to their workplace and begin to set up workshops for their own groups.

This approach means that it will be easier for organizations to schedule their own training, there will be a wider geographic distribution of training sites, and internal consultants will be developed who can provide future training and ongoing advice on the new Act for their co-workers.

It is estimated that 90 trainers will be required to provide training for all of the participants. Four train-the-trainer workshops will be held in October and November, in locations throughout the province.

Design of the program

Adult education principles were used in designing the training modules. A key component is a videotape that addresses various aspects of the Act by combining dramatized scenarios (produced by the Justice Institute of BC) with interviews with Nova Scotia justice professionals. At the end of each video segment, participants have the option of working through exercises and practical questions to help them understand the information and apply it to their work. This manual contains options for all Justice professionals. Each group may use the options to the extent they are relevant to them.

The Restorative Justice Program is dealt with both when discussing the scenarios presented on the videotape and when using exercises which focus on the principles and benefits of the program.

Because facilitators are not expected to be experts in the legislation, each participant will be asked to write down any questions the trainer cannot answer, and note any work procedures that might need to be revised as a result of the new legislation, on a Participant Response Form (PRF). The training organizers will answer these questions on the web site and by email following the workshop.

NOTE: the procedure outlined here may be slightly different for agencies external to the Provincial Department of Justice. For example, some agencies may wish to collect their questions internally, and then submit them to the training organizers.

Justice Canada requires a list of names of all of the participants of YCJA training in Nova Scotia as a condition of their funding. We therefore ask all participants to complete Part A of the Participants Response Form. Trainers should send the collected forms to the YCJA Training Coordinator at the N.S. Department of Justice. The completion of Part B is optional. External agencies may wish to supply simple lists of participants, which is also acceptable.

Resources

Pocket Guide	This pocket-sized, quick-reference guide contains the key provisions and changes in the legislation. It is designed as a user-friendly reference for police and other justice professionals. The Pocket Guide will be used during training, and copies will be provided for all participants.
Youth Criminal Justice Act	Copies of the Act will be made available to participants during the training.
Laminated Flow Charts	These illustrate key processes in the legislation, and are to be used as both a training tool and ongoing reference. One set of three two-sided flow charts will be provided for all participants.
Manuals	Three-ring binders contain the manuals for all groups. Each trainer manual includes a detailed training plan. Customized Participants' Manuals include a workbook as well as new policies and procedures that affect the participant's area of work, as available.
Video	<p>This presents various dramatized scenarios, and interviews with Nova Scotia justice professionals who describe the changes in the legislation relevant to the scenario. Topics include Extrajudicial Measures, Restorative Justice, Youth Sentences, Statements, Conferences, Victim Services, Referrals to Child Welfare, Pre-trial Detention, Adult Sentences, Intensive Rehabilitative Custody and Supervision (IRCS), Publication, Pre-sentence Reports, Reintegration and Aboriginal Issues.</p> <p>The video provides accurate and consistent content for all groups. Each workshop will discuss the topics raised in the scenarios and focus on how the participants' work will change as a result of the new legislation.</p>
Case studies	A selection of case studies are used to illustrate successful interventions under the Restorative Justice Program in all four referral entry points.

On Line

A web site contains all of the training materials in electronic format. This gives all trainers and participants access to the materials via a password that is provided at the training workshops.

The website address is: <http://jlc.nscs.ns.ca/ycja/>

SECTION 1

Overview of the YCJA

Learning Objective

To get each participant actively involved in the learning process by developing a list of some of the ways their work may be changed by the YCJA, using a videotaped overview of the key points in the YCJA, and discussion in pairs

Learning Outcome

Participants discuss some of the ways that their work will be changed by the YCJA

Resources List

YCJA Video: Section 1 - Overview of the YCJA

Materials required

1 YCJA Videotape
1 of each of the following items for every participant
Pocket Guide
Participants' Manual
Evaluation Form
Participant Response Form (PRF)

Equipment required

VCR
monitor (large enough to be clearly seen by participants)
flip chart stands (as required by trainers)

Supplies required

flip chart pads (as required by trainers)
markers
masking tape
name tags

Suggested room setup

tables for three or four working groups

Format and Time	Activity	Resources
Large group 15 minutes	<p>Welcome</p> <ul style="list-style-type: none"> → Introduce outline of day → Housekeeping - washrooms, emergency exits, name tags, etc. <p><i>Trainers will set lunch and break times.</i></p> <p>Introduce Parking Lot</p> <ul style="list-style-type: none"> → The Parking Lot is a flip chart page which is put up on the wall in the training room. If participants raise concerns or have questions that are not relevant to the discussion at that moment, the item is placed in the Parking Lot for consideration at a more appropriate time, or at the end of the session. The participant who raises the item is responsible to see that it is addressed. <p>Introduce PRF and Evaluations</p> <ul style="list-style-type: none"> → Point out the participant response form (PRF) and Evaluation Form in their Participants' Manuals. The PRF provides an opportunity to write down any unanswered questions which they may have regarding the YCJA and its implementation. Responses to these questions will be posted on the web site and sent to individuals by email if they wish to receive a response. The second form is the Evaluation Form. These forms must be collected in two separate lots at the end of the workshop to maintain confidentiality. <p>N.B. - All participants must complete Section A of the Participant Response form so that an accurate record of the names of participants can be sent to the funders. External agencies may wish to submit a list of names to the N.S. Department of Justice instead of completed PRFs.</p>	<p>Participants' Manual p.1.3</p> <p>Participant Response Forms Participants' Manual p.1.7</p> <p>Evaluation Forms Participants' Manual p.1.8</p>

Format and Time	Activity
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Large group
15 minutes
(optional)

Ice Breaker - Chair Line

→ Tell participants that you would like them to participate in a brief exercise to help everyone get to know each other better. Ask participants to set up their chairs in two lines facing each other. Describe the process you will be using. Read one of the following questions. Ask participants to give their name to the person directly across from them and then share their answer to the question with that person. Give participants approximately two minutes per question then ask participants in one of the rows to move one seat to the right; the person at the end of the row moves to the other end of the line of chairs. Repeat the process with the second question and so on. Questions progress from being simple conversation starters to being related to youth and the YCJA.

Some participants may need to be reassured that they will not be asked questions on the information received during the exercise.

Note: Trainers may alter or substitute questions based on the needs of their group. Five questions is normally sufficient.

Questions:

What is your first response to a rainy morning?

What is your favorite activity when the moon is full?

What was your favorite activity as a teenager? Give one reason.

At what age should children be allowed to start drinking coffee? Give one reason.

What is the most important concern in the mind of the average teenager?

What is the most important concern for a teenager with no spending money on a Saturday night?

What is the most interesting thing you have heard about the new Act?

Whose role in your office will not be changed at all by the new Act?

Format and Time	Activity	Resources
Large group/pairs 15 minutes	<p>Introduce videotaped overview and background segment</p> <p>→ Mona Lynch - YCJA Coordinator - Department of Justice (NS) Ms. Lynch provides a high level overview of the key changes brought about by the Youth Criminal Justice Act. A brief background segment introduces the four YPs featured in the training video.</p> <p>→ Refer participants to notes in the Participants' Manual which cover the key points made in the Overview as they watch the video.</p> <p>→ Watch the videotaped overview and background segment</p> <p>→ In pairs, have participants identify one way in which their work is likely to change under the new legislation.</p>	YCJA video Section 1: Overview and background segment Participants' Manual p. 1.4-1.6

Small group exercise (Optional)	<p>The burning bush</p> <p>→ Divide participants into small groups. Ask each group to draw a burning bush on flipchart paper. Ask them to label it with their issues and concerns about the new YCJA. Tape pages to the rear wall of the classroom. Tell participants these will be revisited by the whole group at the end of the day.</p> <p>Note: <i>Many participants will come to the sessions with preconceived notions about the YCJA, anxieties, and concerns. This exercise allows participants an opportunity to put words to these concerns in a safe environment. It is hoped that this will allow them to set their concerns aside so that they can be open to the learning which is offered for the rest of the day.</i></p>	
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SECTION 2

THE CASE OF BILLY JAMES

Extrajudicial Measures



Learning Objective 1

To understand the range of extrajudicial measures open to police officers and Crown attorneys, through working with a dramatized video scenario, a video presentation, relevant sections from the Pocket Guide, and the Participants' Manual

Learning Outcome 1

Participants are able to state which option they feel is most appropriate in the case of Billy James and give the reasons for their opinion

Resources List

Pocket Guide
Laminate # LAM.C
YCJA Video: Section 2 - *The Case of Billy James* - Extrajudicial measures
Participants' Manual
Suggested answer
Flip chart pages with one extrajudicial measure written at the top of each:
 Take no further action
 Warning
 Referral to a program or agency in the community (with consent of YP)
 Police Caution
 Extrajudicial sanction (Police or Crown referral)

Format and Time	Activity	Resources
Large group 15 minutes	<p>Introduce Billy James scenario</p> <p>→ Convey this information: This Section introduces some new terminology for measures that are used outside of the court process. The options are listed on page nine of the Pocket Guide. The items that are within police discretion are to take no further action, or issue a warning, caution, or referral to a community program or agency. The YCJA emphasizes these measures and states that a police officer MUST consider them before they can refer to extrajudicial sanctions or the formal court system. There is also provision for a Crown caution in those provinces that have developed a program.</p> <p>Extrajudicial sanctions are also part of Extrajudicial Measures. Extrajudicial sanctions are already in place in Nova Scotia as part of the provincial Restorative Justice program. They were formally known as Alternative Measures under the Young Offenders Act.</p> <p>The principles governing extrajudicial measures are found on page 10 of the Pocket Guide.</p> <p>→ Ask participants to think about which measures might be most appropriate to use as they watch the Billy James scenario.</p> <p>→ Watch the following video segments:</p> <ol style="list-style-type: none"> 1 <i>The Case of Billy James</i> 2 Presentations by <i>Cst. Don Jenkins</i>, Halifax Regional Police <i>Jane Earle</i>, Executive Director, Community Justice Society, and <i>Betty Thomas</i>, Volunteer Coordinator, Community Justice Society 	<p>YCJA video: Section 2 - <i>The Case of Billy James</i> - Extrajudicial Measures, Role of the Community Justice Agency</p> <p>Pocket Guide p. 9-14</p>

Format and Time	Activity	Resources
<p>Large/small group exercise 40 minutes (optional)</p>	<p>Carousel Exercise</p> <ul style="list-style-type: none"> → Hang EJMs in separate stations around the room. → Break large group into three to four small groups. Have each group circulate to all stations. → Give each group approximately 3 minutes at each station. On each EJM's flip chart page have each group list some reasons why that EJM might be appropriate for Billy James and some reasons why it might not be appropriate. Each group should have its own color of marker so that their group's comments can be distinguishable from the others. → Ring a bell at the end of three minutes to keep the groups moving from station to station. As the exercise progresses, groups may not need to spend as long at each station. Continue this process until all groups have visited each station. <i>20 minutes</i> → Ask each group to recommend which EJM is the most appropriate one for Billy James. <i>10 minutes</i> <p>Evaluate responses against a suggested answer. <i>10 minutes</i></p>	<p>Laminates Pocket Guide p. 9-14 Different colour marker for each group EJM flip chart pages Trainers' Manual p.2.1</p> <p>Suggested answer Trainers' Manual p.2.4</p>

SUGGESTED ANSWER

Section 2

Billy James

Billy's biggest problem appears to be unresolved issues about the break-up of his parents and his mother's relationship with Uncle Rick, who appears to treat both Billy and Billy's mother rather poorly. While Billy seems to have been arrested for shoplifting, it is not clear how that charge was resolved. Even if it was dealt with by way of Alternative Measures under the YOA, the YCJA makes it clear in s. 4(d) that the use of extrajudicial measures is not precluded. This is a summary conviction offence, there didn't appear to have been any damage to the vehicle, Billy was held in custody for a period of time. The best alternative would be a referral for family counseling for Billy and his mother, with Billy's consent, to an appropriate agency in the community. This would hopefully help prevent Billy from committing further offences by addressing the circumstances underlying his behaviour and providing him with less destructive ways of dealing with Uncle Rick.

The only other option which would deal with the underlying causes of the offence would be a referral to the RJ program, where an exploration of what was happening in Billy's home would be part of the RJ process. However, s. 10 of the YCJA, allows for a referral to Extrajudicial Sanctions only where the warning, caution, or referral would not be adequate due to the seriousness of the offence, the nature and number of previous offences committed by the young person or any other aggravating circumstances. As taking a motor vehicle without the consent of the owner is a summary conviction offence, Billy has no prior findings of guilt and no other apparent aggravating circumstances of the offence appear to make the warning, caution or referral inadequate, I don't think that a referral to RJ or extrajudicial sanctions can be justified under the YCJA.

SECTION 3

THE CASE OF STEVE CHONG AND JASON DUNLOP

Youth Sentences, Statements



Learning Objective 1

To describe the different types of youth sentences open to the courts and their appropriate use, through working with a dramatized video scenario, an exercise, a video presentation, relevant sections from the Pocket Guide and the Participants' Manual

Learning Outcome 1

Participants are able to give their opinion on which judicial or extrajudicial measure is appropriate for both Steve Chong and Jason Dunlop, and give reasons for their opinion that are consistent with the YCJA

Learning Objective 2

To know all of the important roles played by the NS Restorative Justice Program, through working with a dramatized video scenario, a video presentation, relevant sections from the Pocket Guide, laminates and materials from the participants manual

Learning Outcome 2

Participants are able to describe how extrajudicial measures or the Restorative Justice program could be used in the case of Steve Chong and Jason Dunlop

Learning Objective 3

To understand the changes to the law regarding the admission of statements, through working with a dramatized video scenario, a video presentation, appropriate sections from the Pocket Guide and the Participants' Manual

Learning Outcome 3

Participants are able to give an opinion on whether Jason Dunlop's statement will be allowed into evidence, with reasons consistent with the YCJA

Resources List

Pocket Guide

YCJA Video: Section 3 - *The Case of Steve Chong and Jason Dunlop* - Youth Sentences, Statements

Suggested answer

Participants' Manual

Four sets of "Measures Cards"

one card for each extrajudicial measure (includes extrajudicial sanctions under Restorative Justice Program) and

one card for each Youth Sentence

under the YCJA s.42(2) (a to s)

Format and Time	Activity	Resources
Large group 15 minutes	<p>Introduce Steve Chong and Jason Dunlop scenario</p> <p>→ Convey this information: The YCJA creates some new youth sentences, sets out the conditions that must exist before a custodial sentence can be imposed, and includes a period of supervision in the community as part of all custodial sentences.</p> <p>→ Ask participants to watch the video segments for descriptions of the new youth sentences, and be prepared to choose the appropriate extrajudicial or judicial measure, or Restorative Justice option for each of the two YPs.</p> <p>→ Ask them also to watch carefully for the video segment in which a statement is taken from a YP.</p> <p>→ Watch the following video segments: 1 <i>The Case of Steve Chong and Jason Dunlop</i> 2 presentations by <i>Chandra Gosine</i>, Nova Scotia Legal Aid</p> <p>→ Refer participants to laminates C, D, E, and F for a quick refresher on the Restorative Justice Program, if required. The program will be dealt with in greater detail in Section 7.</p>	<p>YCJA video: Section 3 - <i>The Case of Steve Chong and Jason Dunlop</i> Youth Sentences Statements</p> <p>Participants' Manual p. 3.9-3.17</p> <p>Participants' Manual p. 3.19-3.22</p> <p>Laminates C,D,E,F</p>

Format and Time	Activity	Resources
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Small group exercise
35 minutes (optional)

May the best hand win!

→ Break the group into 3 to 4 small groups. Give each group a pack of measures cards. Ask each small group to deal the cards among the members of the group. Ask each participant to research their “hand” using the Pocket Guide and the Participants’ Manual to determine if any of their measures are appropriate for Jason Dunlop or Steve Chong.

Each group should have a pile of cards — with possible measures for Jason and Steve. Give the groups a few minutes to review their piles and discuss. Once each group feels that it has its “final answer,” ask a spokesperson from each group to share their answers with the large group. Record all responses on a flip chart grid that looks like this:

Measures Cards (one pack for each small group)
Pocket Guide p. 19-38
Participants’ Manual p. 3.11-3.17

Suggested answer Trainers’ Manual p. 3.6

	Jason Dunlop	Steve Chong
Group 1		
Group 2		
Group 3		
Group 4		

Then compare the results with the suggested answer. (Some trainers have written the suggested answers underneath the grid and covered them up until the appropriate time.)

Note: If the participants question why Jason is in court, remind them that the scenarios were filmed in B.C. and while in N.S. referral by police can only be made pre-charge, in other provinces extrajudicial sanctions work differently.

Format and Time	Activity	Resources
<p>Large/small group exercise <i>20 minutes</i> (optional)</p>	<p>What's wrong with this picture?</p> <p>→ Each small group considers this question: Assume that the officer took a statement from Jason during the interview at his house. Based on what you saw in the video only, what seems to be missing about the way the officer took Jason's statement? <i>10 minutes</i></p> <p>→ Small groups report to facilitator what steps were missing. <i>10 minutes</i></p> <p>→ Evaluate the answers against the suggested answer.</p>	<p>Participants' Manual p. 3.19-3.22</p> <p>Pocket Guide p. 104-105</p> <p>Suggested answer Trainers' Manual p. 3.7</p>

SUGGESTED ANSWER

Section 3 Steve Chong and Jason Dunlop

For Jason, there is no indication of any prior record or involvement with offending. He was cooperative with the police and while a party to the offence he was not inside the house and did not participate in the damage to property. He spent at least some time in custody. Sitting down and discussing the offence, his mother's reaction, seeing the effect on the victim would likely be the most effective and appropriate way to deal with this offence (s. 4(a)). It appears to be a first offence and is a non-violent offence – therefore extrajudicial measures are presumed to be adequate to hold him accountable (s. 4(c)). As a Break and Enter is a very serious offence, a warning, caution or referral may not be adequate. I would refer Jason to Restorative Justice as it would appear to be adequate to hold him accountable.

Steven on the other hand has a record, although we are not given the details. Extrajudicial measures would not be adequate to hold Steven accountable and appear not to be proportionate to the seriousness of the offence. The Crown have indicated that they will be seeking a custodial sentence. The YCJA requires just sanctions, with meaningful consequences, promoting rehabilitation and reintegration into society, thereby contributing to the long-term protection of the public (s. 38(1)). The sentence must be similar to sentences in the region, for similar young persons for similar B&Es, the sentence must be proportionate to the seriousness and Steven's degree of responsibility, all available sanctions other than custody must be considered, the sentence must be the least restrictive that can achieve the purpose, be most likely to rehabilitate and promote a sense of responsibility. (s. 38(2)). Steven was the main participant, the harm to the older victim was likely great and reasonably foreseeable, Steven spent some time in custody, the extent of his record is not known and Steven appears to have been uncooperative (s.38(3)). When I look at the restrictions on the use of custody under s. 39, the offence is non-violent, there is no indication that he has failed to comply with non-custodial sentences, the offence is one for which an adult is liable to more than two years but I cannot say that Steven's history indicates a pattern of findings of guilt and I am not sure that this is such an exceptional case that the aggravating circumstances are such that a non-custodial sentence would be inconsistent with the purpose and principles of section 38. In my view, s. 39 does not

allow Steven to be sentenced to custody. Deferred custody is not an option as the s. 39 restrictions apply to that sentence as well. I believe that Steven would be placed on probation for 12-18 months. Conditions are difficult to determine without knowing more about the background contained in the PSR.

With regard to Jason's statement to police, we only had a quick view but there didn't appear to be any recording device being used and there didn't appear to be anything written. We did not see explanations given to Jason that he was under no obligation to make a statement, the statement could be used in proceedings against him, he had the right to consult counsel and a parent, etc, and the statement had to be made in the presence of the person consulted unless he wanted otherwise (s.146). We didn't see him given a reasonable opportunity to consult counsel and a parent, etc. The statement, while oral, did not appear to be made spontaneously before the police officer had a reasonable opportunity to explain the rights. There didn't appear to be any waiver, in writing, on video or on audio tape. Not providing rights to Jason would be more than a technical irregularity. The statement would not be admissible against Jason in any proceeding.



ADMISSIBILITY OF STATEMENTS BY YOUNG PERSONS

Reference: Admissibility of Statements, Admissions and Confessions

No oral or written statement made by a young person to a person in authority, upon arrest or detention, or upon the person in authority having reasonable grounds to believe that the young person has committed an offence is admissible against the young person unless the statement is voluntary (para. 146(2)(a)) and meets the following conditions:

- Before the statement, the person in authority explained that
 - the young person is under no obligation to make a statement;
 - the statement may be used as evidence against the young person;
 - the young person has the right to consult counsel and a parent; and
 - the statement must be made in the presence of counsel and anyone else consulted by the young person (para. 146(2)(b)).
- Before the statement, the young person was provided with a reasonable opportunity to consult counsel and a parent or any other appropriate adult who was not a co-accused or under investigation for the same offence (para. 146(2)(c)).
- If the young person consulted counsel, a parent or another person, the young person was given an opportunity to make the statement in the presence of the person or persons consulted (para. 146(2)(d)).

The conditions in paragraphs 146(2)(b) to (d) do not apply for oral statements made spontaneously to a person in authority before that person has had the opportunity to comply with those requirements(ss. 146(3)). If the young person is cautioned as required by paragraph 146(2)(b), he or she may waive his or her rights under paragraphs 146(2)(c) and (d), but the waiver must be recorded or written in a signed statement (para. 146(4)). The young person's waiver may be accepted without recording or a signed statement if the youth justice court is satisfied that the young person was informed of his or her rights and voluntarily waived them (ss. 146(5)).

The youth justice court may admit into evidence a statement taken despite a technical irregularity incomplying with paragraphs 146(2)(b) to (d), if the court is satisfied that admitting the statement would not bring into disrepute the principle that young persons are entitled to enhanced procedural protection to ensure that they are treated fairly and their rights are protected (ss. 146(6)).

If a young person satisfies the judge that a statement was made under duress imposed by any person who is not a person in authority, then the youth justice court judge may rule that the statement is not admissible (ss. 146(7)).

The youth justice court judge may admit a statement or waiver if, at the time of making the statement:

- The young person represented himself or herself as being 18 years old or older.
- The person to whom the young person made the statement or waiver made reasonable inquiries as to the young person's age and had reasonable grounds to believe he or she was 18 years old or older.
- In all other circumstances the statement or waiver would otherwise be admissible (ss. 146(8)).

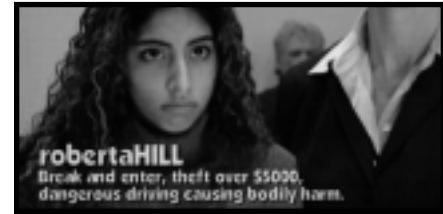
A statement made by a young person during a medical or psychological assessment is inadmissible as evidence in a youth justice court unless the young person consents. Such a statement is admissible for the purposes of

- making a decision as to whether an adult or youth sentence is to be applied;
- determining a young person's fitness to stand trial;
- determining the young person's state of mind during the commission of an alleged offence;
- challenging the credibility of the young person or establishing the young person's perjury;

SECTION 4

THE CASE OF ROBERTA HILL

Conferences, Victim Services, Referrals to Child Welfare, Pre-trial detention



Learning Objective 1

To learn to distinguish between two different types of conferences (a Restorative Justice conference and a case conference), by watching a dramatized video scenario and a video presentation, and referring to appropriate sections from the Pocket Guide

Learning Outcome 1

Participants are able to describe the purpose, participants and organizing group for each type of conference

Learning Objective 2

To understand the changes to pretrial detention brought about by the YCJA, by watching a dramatized video scenario and presentation, and referring to appropriate sections from the Pocket Guide and Participants' Manual

Learning Outcome 2

Participants are able to give their opinion on whether Roberta should be released before trial

Learning Objective 3

To consider the changes in the YCJA that relate to victims and to explore how restorative justice conferences may assist victims, by group discussion and a review of the Pocket Guide

Learning Outcome 3

Participants are able to identify changes that relate to victims and are able to describe how a restorative justice conference may assist victims

Resources List

Pocket Guide

YCJA Video: Section 4 - *The Case of Roberta Hill* - Conferences,
Victim's Services, Referrals to Child Welfare, Pre-trial Detention

Suggested Answer

Participants' Manual

Format and Time	Activity	Resources
Large group 15 minutes	<p>Introduce Roberta Hill scenario</p> <p>→ Convey this information: This segment distinguishes between two different types of conferences. One, a Restorative Justice type of conference like those described in the first segment, is compared and contrasted here with a case conference.</p> <p>→ Ask participants to follow the presentation on judicial interim release (bail) carefully and be prepared to give an opinion on whether Roberta should be released before trial.</p> <p>→ Watch the following video segments: 1 <i>The Case of Roberta Hill</i> 2 presentations by <i>Tony-Lynn Mitchell</i>, Court Services <i>Cindy MacKinnon-North</i>, Victim Services <i>Catherine Cogswell</i>, Public Prosecution Service</p>	<p>YCJA Video: Section 4 - <i>The Case of Roberta Hill</i> - Conferences, Victim Services, Referrals to Child Welfare, Pre-trial Detention</p> <p>Pocket Guide p. 15-18</p>

<p>TRIADS</p> <p>Large group discussion 10 minutes (optional)</p>	<p>Playing the part</p> <p>Break large group into triads. One member of the triad explains to the second member the two types of conferences that may be used in Roberta's case.</p> <p>The explanation should include the purpose of each type of conference, who would attend and who would organize it.</p> <p>The third member of the triad acts as Observer. The Observer keeps notes and gives feedback to the second member on the accuracy of the explanation based on p. 91 of the Pocket Guide.</p>	<p>Pocket Guide p. 91 Participants' Manual p. 4.9</p>
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Format and Time	Activity	Resources
<p>Large discussion group <i>10 minutes</i></p>	<p>To release or not to release...</p> <p>→ Do you think that Roberta will be released before trial? Why or why not?</p> <p>→ Compare responses to suggested answer.</p>	<p>Pocket Guide p. 15-17 Participants' Manual p. 4.17-4.23</p> <p>Suggested answer Trainers' Manual p. 4.5</p>
<p>Large/small group exercise <i>35 minutes</i> (optional)</p>	<p>Considering the victims</p> <p>→ Divide participants into two groups. Each group prepares a presentation for the other group.</p> <p>→ Group one searches the Pocket Guide and Act for all changes that relate to victims.</p> <p>→ Group two lists the key benefits to victims of a Restorative Justice Conference. <i>15 minutes</i></p> <p>Groups present to each other. <i>20 minutes</i></p>	<p>Pocket Guide p. 51-54 Participants' Manual p. 4.25</p>

SUGGESTED ANSWER

Section 4

Roberta Hill

Roberta is certainly charged with serious offences but she also has special needs because of her FASD. She is in the care of child welfare it appears and is in a placement. There is no indication that Roberta has a prior record. With regard to s. 515(10)(a) there is no indication that she will not appear for court as she has responsible adults who can assist her. Looking at s. 515(10)(b) we have to presume that detention is not necessary if she cannot be committed to custody on the grounds set out in s. 39(1)(a) to (c). While someone was seriously hurt in the offence, it is not a violent offence in the true sense of the word, there is no indication that she has failed to comply with non-custodial sentences, the offences are ones for which an adult could receive more than two years, however there is no indication of a pattern of findings of guilt. Section 515(10)(c) would likely not require her to be held. While Roberta may have jeopardized or lost her placement, the YCJA provides that pre-trial detention cannot be used as a substitute for appropriate child protection, mental health or other social measures. Whether she has a placement or not should not affect her release. I believe she would be released on an undertaking. Conditions would be attend court and any others coming from her circumstances.

SECTION 5

THE CASE OF JEAN MARQUETTE

Adult Sentences, IRCS (intensive rehabilitative custody and supervision), Pre-sentence reports, Reintegration, Publication



Learning Objective 1

To understand the factors which must be in place before a court can impose an adult sentence on a young person, by working with a dramatized video scenario and a video presentation, and reference to relevant sections from the Pocket Guide

Learning Outcome 1

Participants are able to predict whether Jean has a chance of having an adult sentence imposed, referring to the appropriate provisions of the Act

Learning Objective 2

To understand when the IRCS sentence is to be used, by working with a dramatized video scenario, a video presentation, and relevant sections from the Pocket Guide

Learning Outcome 2

Participants are able to form an opinion about whether an IRCS sentence may be used in Jean's case, referring to the appropriate provisions of the Act

Learning Objective 3

To understand when a young person's involvement with the youth criminal justice system may be publicized, by working with a dramatized video scenario, a video presentation, and relevant sections from the Pocket Guide

Learning Outcome 3

Participants are able to state when publication may occur, referring to the applicable provisions of the YCJA

Learning Objective 4

To understand the procedure for release planning, and how the Restorative Justice Program might assist, by working with a dramatized video scenario, a video presentation, and relevant sections from the Pocket Guide

Learning Outcome 4

Participants are able to describe how the procedure for release planning would work for Jean if he received a custodial sentence, including a possible referral to Restorative Justice, referring to the applicable provisions of the YCJA

Learning Objective 5

To understand the procedure for setting additional conditions on release, by working with a dramatized video scenario, a video presentation, a lecturette, relevant sections from the Pocket Guide, and relevant policies and procedures

Learning Outcome 5

Participants are able to describe how the procedure for setting additional conditions on release would work for Jean, making reference to the appropriate documents

Learning Objective 6

To understand how to deal with a hypothetical breach of a condition of supervision in the community, by working with a dramatized video scenario, a video presentation, a lecturette, relevant sections from the Pocket Guide, and relevant policies and procedures

Learning Outcome 6

Participants are able to describe the result of a hypothetical breach of a condition of supervision in the community for Jean, with reference to the YCJA and relevant policies and procedures

Resources List

Pocket Guide

Laminates # LAM.A, LAM.B

Suggested answer

Participants' Manual

YCJA Video: Section 5 - *Case of Jean Marquette* - Adult Sentence, IRCS, Pre-sentence Reports, Reintegration, Publication

Format and Time	Activity	Resources
Large group <i>15 minutes</i>	<p>Introduce Jean Marquette scenario</p> <p>→ Convey this information: The case of Jean Marquette highlights the new provisions in the YCJA which deal with very serious crimes. Let participants know that the questions in this Section focus on adult sentencing, custody and supervision.</p> <p>→ Watch the following video segments:</p> <ol style="list-style-type: none"> 1 The Case of Jean Marquette 2 Presentations by <i>Catherine Cogswell</i>, Public Prosecution Service <i>Sherry Bernard</i>, Corrections <i>Mark Childs</i>, Corrections 	<p>YCJA Video: Section 5 - <i>The Case of Jean Marquette</i> - Adult Sentence, IRCS, Pre-sentence Reports, Reintegration, Publication</p>

Format and Time	Activity	Resources
Small group exercise 50 minutes (optional)	<p>Q & A</p> <p>Note: <i>You may need to use some or all of these questions, depending on the requirements of your participant group.</i></p> <p>→ Break participants into small groups. Groups assign a different question to each participant to research and share to develop a group response for all questions.</p> <p>Each group answers these questions:</p> <ol style="list-style-type: none"> 1 What are Jean’s chances of having an adult sentence imposed? 2 Is an IRCS sentence appropriate in Jean’s case? 3 Under what conditions can Jean’s identity be published? 4 What are the steps of release planning for Jean? What might be the role of the Restorative Justice Program in helping Jean return to the community? 5 If Jean were to be released to supervision in the community, would there be additional conditions set and who would set those? 6 If Jean were to breach a condition, what would be the procedure and what would be the likely result? <p>Each answer must refer to the appropriate section in the YCJA.</p> <p>40 minutes</p>	<p>Participants’ Manual p. 5.9</p> <p>Pocket Guide p. 42, 48 and 49</p> <p>Pocket Guide p. 32-34</p> <p>Pocket Guide p. 100-101</p> <p>Pocket Guide p. 66</p> <p>Laminate E</p> <p>Pocket Guide p. 74-75</p> <p>Pocket Guide p. 86-88</p>

Format and Time	Activity	Resources
	<p>→ A representative from each group tells the large group their answer for question one. The trainer reads out the suggested answer and awards points to each group based on their answers. Points are recorded on a flip chart grid.</p> <p>2 points = perfect answer 1 point = partial answer 0 points = wrong answer</p> <p>The same process is used for all subsequent questions. Winning group has the highest score at the end of the questions. <i>10 minutes</i></p> <p><i>Note:</i> An alternative method is to give the groups a copy of the suggested answer after they have answered all of the questions. Each group can score itself and share their total score with the larger group.</p>	<p>Suggested answer Trainers' Manual p. 5.7, 5.8</p>

SUGGESTED ANSWER

Section 5

Jean Marquette

1 Assuming that the age of presumption in NS will be 14, Jean is presumed to receive an adult sentence as he is charged with murder (s.61). The Crown does not need to give notice, Jean must make an application for a youth sentence (s. 63) and he bears the burden of showing why he should not receive an adult sentence (s. 72(2)). Jean would be put to his election (s.67). It is difficult without further information on Jean to determine what arguments would be made in favor of a youth sentence other than IRCS. I believe if he was not eligible for an IRCS sentence because he does not meet all of the criteria in 42(7) he would receive an adult sentence based on the seriousness and circumstances of the offence, etc. (s. 72(1))

2 Jean obviously has some mental health problems, in the introduction he was hospitalized for a suicide attempt. The video also indicated that he was not talking to anyone for 10 days and had started taking anti-depressants recently. There is no indication of a prior record. He could receive 10 or 7 years as a youth sentence depending on whether he was found guilty of first or second degree murder (ss. 42(2)(q)or(r)). He meets the first of the four criteria for IRCS, (s.47(7)) he is charged with murder, he is likely suffering from a mental illness or disorder, a psychological disorder or an emotional disturbance. If a plan of treatment and intensive supervision could be developed which might reduce the risk of him repeating the offence or committing another serious violent offence and the PD determines a program is available and appropriate (s. 47(7)), I believe that Jean would receive an IRCS sentence. IRCS would be the least restrictive sentence capable of achieving the purpose of sentencing and with the extra mental health resources it would be the one most likely to rehabilitate the Jean, and it would allow for meaningful consequences (s. 38).

3 If Jean receives an adult sentence his name can be published (s.110(2)(a)). If he receives a youth sentence for a presumptive offence, his identity can be published unless a judge orders otherwise (s.110(2)(b)). The judge must ask at the sentencing hearing whether the Crown or the young person wish to make an application for a ban on publication (s. 75(1)). The Judge can order the ban if the court considers it appropriate in the circumstances taking into account Jean's rehabilitation and the public interest (s. 75(3)). If Jean is suffering from a mental illness I believe that a publication ban would be imposed.

4 If Jean receives a youth sentence, a youth worker must be designated as soon as he enters custody to work with the him to plan for his reintegration into the community, the youth worker would then supervise Jean and assist him to respect the conditions in the community (s.90). If Jean is on an IRCS sentence mental health services would likely have to be obtained for him in the community and there could be financial assistance for a placement.

Assistance for his reintegration into the community could be obtained through the Community Justice Agency in the area where Jean is going to live by way of a referral to RJ.

5 As it is a presumptive offence, Jean's conditional supervision portion of his sentence would contain the mandatory conditions in s. 105(2) and additional conditions set by the court after hearing from the young person. The PD must bring Jean before the court at least one month before the expiry of the custody portion of his sentence to have the conditions set (s. 105)).

6 If the PD has reasonable grounds to believe that Jean has breached or is about to breach a condition of his conditional supervision the PD can, in writing, suspend the conditional supervision and order the young person remanded into a youth facility (s. 106). A warrant may be issued for the young person and a peace officer may arrest the young person (s.107(3)). If the Jean was arrested he must be brought before the PD within 24 hours or as soon as possible (s.107(4)). The PD must review the suspension within 48 hours and either cancel the suspension or refer the case to the youth justice court (s. 108). The court, after hearing from Jean, can cancel the suspension if not satisfied be breached or was about to breach. If satisfied that Jean breached or was about to the court can: cancel the suspension and vary the conditions, or order the continued suspension for a period not to exceed the remainder of the youth sentence and Jean would remain in custody (s. 109). Without any facts as to the type of condition, how far into the supervision portion of the order, it cannot be determined whether Jean would remain in custody or not.

SECTION 6

Aboriginal Issues

Learning Objective 1

To understand the provisions of the YCJA which deal with aboriginal people, working with a video presentation, and reference to appropriate sections from the NS Pocket Guide

Learning Outcome 1

Participants are able to describe how the provisions of the YCJA which deal with aboriginal people that might influence sentencing for an aboriginal young person

Resources List

Pocket Guide
YCJA Video: Section 6 - Aboriginal Issues
Suggested answer

Format and Time	Activity	Resources
Large group 5 minutes	<p>Introduce Curtis Michael segment</p> <p>→ Watch the video segment presentation by Curtis Michael, Mi'kmaq Youth Options Program.</p>	YCJA Video: Section 6 - Aboriginal Issues
Large group discussion 15 minutes (optional)	<p>From another perspective</p> <p>→ Discuss the following questions in the large group:</p> <p>What other option would an officer have if Billy James were Mi'kmaq?</p> <p>If Steve Chong were a Mi'kmaq what YCJA provisions would enter into deciding his sentence?</p> <p>Read suggested answer to participants.</p>	<p>Pocket Guide p. 3,4, 20</p> <p>Suggested answer Trainers' Manual p. 6.3</p>

SUGGESTED ANSWER

Section 6

Aboriginal Issues

1 Instead of a referral to the provincial RJ program, the referral would be made to the Mi'kmaq Youth Options Program.

2 The judge would have to consider s. 3(1)(c)(iv) "within limits of fair and proportionate accountability, the measures taken against young person who commit offences should (iv) respect gender, ethnic, cultural and linguistic differences and respond to the needs of aboriginal young persons of young person with special needs". The principles of sentencing require the judge to consider all available sanctions other than custody that are reasonable in the circumstances with particular attention to the circumstances of aboriginal young persons.

SECTION 7

The Restorative Justice Program and Youth Justice Act (N.S.)

Learning Objective 1

To know all of the roles played by the NS Restorative Justice program and how to access the program, through working with exercises, case studies, laminates, and materials from the Participants Manual

Learning Outcome 1

Participants are able to describe the steps of how the Restorative Justice Program can be accessed

Learning Objective 2

To appreciate the effectiveness of the Restorative Justice Program for the victim, society, the justice system, justice professionals, and the young person in conflict with the law, by working with Restorative Justice case studies and small group discussions

Learning Outcome 2

Participants are able to describe how the Restorative Justice Program brought about a more favorable outcome for the victim, society, the justice system, justice professionals, and the young person in conflict with the law than the traditional court system

Note: The following plan calls for one hour of training.
A shorter 30 minute plan would consist of the following:

20 minutes Restorative Justice: What is it about?
Present the key facts of the Case Study on p. 7.3

5 minutes Quickly review Laminates C,D,E,F and
cover text on p. 7.4

5 minutes Close with a brief Closing Discussion

Format and Time	Activity	Resources
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Large group
20 minutes

Restorative Justice: What is it about?

→ Open session with a comparison of the principles of the YCJA and the Principles of Restorative Justice, as follows:

→ Say the following:

The YCJA sets out the following principles in s.3(1)

- prevent crime by addressing the underlying causes
- rehabilitate and reintegrate the YP into society
- ensure the YP is subject to meaningful consequences
- ensure a fair and timely response to YPs and
- ensure that special consideration is given to the rights and need of YPs and victims

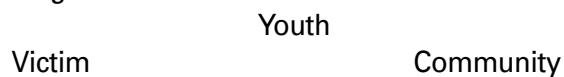
Pocket Guide p. 2-4

Lets compare these to the principles underpinning restorative justice and in particular the Nova Scotia Restorative Justice Program (NSRJP)

The NSRJP sets out to accomplish the following:

- reduce recidivism and increase victim and public satisfaction
- address victim and community needs
- to repair the harm caused by the offence
- to reintegrate the YP into the community

→ Highlight the key elements in RJ using a diagram



Format and Time	Activity	Resources
	<p>→ Say the following: The formal justice system has its focus on these elements as well, but its processes can have the effect of isolating the youth from the obligations s/he has to those people who have been harmed. In the formal system, the predominant focus on the YP's actions, can leave the victim, the community and his/her obligations to them on the sidelines.</p> <p>→ Draw a box around the YP on the diagram to emphasize the point.</p> <p>→ The YCJA requires that decision makers in youth justice consider extrajudicial measures. The Nova Scotia Restorative Justice Program (NSRJP) will be a significant contributor to the successful implementation of the legislation in Nova Scotia.</p> <p>→ Present the key facts of Case Story #1. (trainers may substitute Case Study #2-5 or divide into small groups and give each group a separate Case Study.) Note that each Case Study has a different referral source. Choose the Case Study that is most appropriate for your setting.</p>	<p>Participants' Manual p. 7.19-7.31</p>

→ Discussion:

- Did the Restorative Justice (RJ) process effectively meet the needs of the victims?
- How did the YP benefit?
- In what ways did the process benefit the community?
- If this case went through the formal system instead of RJ would the benefits you have identified for the YP and the victims been part of their experience?

→ Revisit the YCJA principles.

Ask the group “Were these principles met in the Case Studies you reviewed?”

Format and Time	Activity	Resources
Large group 25 minutes	<p data-bbox="581 279 1133 384">The Nova Scotia Restorative Justice Program How do you use it?</p> <p data-bbox="581 426 1133 573">→ Ask the participants to turn to the laminates in the Participants Manual. They can be found at the back of the Participants Manual.</p> <p data-bbox="581 615 1133 909">→ Say the following: Let's do a quick review of the Program Framework. The NSRJP has four distinct entry points for referrals: Pre-charge (Police) Post-charge (Crown) Post Finding of Guilt (Courts) Post sentence (Corrections)</p> <p data-bbox="581 951 1133 1119">The pre-charge and post-charge entry points function as diversions from the formal court process, and are the mechanism for Extrajudicial Sanctions under the new legislation.</p> <p data-bbox="581 1161 1133 1455">The court and corrections entry points serve a different function, offering Restorative Justice Conferencing to provide input to the court at the sentencing stage, or to assist with reintegration post-sentence. The reintegration referral may be part of post-incarceration release planning or an aspect of probation supervision.</p> <p data-bbox="581 1497 1133 1749">The program has established minimum requirements for referral and classification of offence levels by entry point. Clearly the most critical elements in this framework are the decision points where police, Crown, courts and corrections will apply discretion in determining which cases will be referred.</p> <p data-bbox="581 1791 1133 1936">→ Ask participants to review the brief case examples on page 7.35 and describe how they would apply their discretion in each case.</p>	<p data-bbox="1166 279 1417 342">Laminates C,D,E, and F</p> <p data-bbox="1166 1791 1417 1936">Participants Manual p. 7.35 Case Referral Worksheet</p>

Format and Time	Activity	Resources
<p>Large group 10 minutes</p>	<p>Closing Discussion</p> <p>→ Ask participants to identify ways that they can contribute to strengthening the NSRJP</p> <p>Possible answers:</p> <ul style="list-style-type: none"> • See it as a useful tool for application of the requirement of the YCJA • Stress the accountability and service to victims • See how the immediacy of the experience is beneficial for YP • See how the program makes the YP accountable for their actions • Look at ways to promote the use of the program <p>IE:</p> <ul style="list-style-type: none"> • Police can suggest the value of RJ post-charge in those case where they are unable to refer, • Probations officers can highlight value of RJ process in a Pre-sentence report. • Youth Workers can build discussion about obligation, reintegration and participation in RJ into their casework with assigned youth • Probation officers can consider a referral to RJ as a pre-breach intervention <p>→ Record ideas generated on the F/C</p>	

Format and Time	Activity	Resources
Large group 15 minutes	<p data-bbox="581 279 805 306">Youth Justice Act</p> <p data-bbox="581 352 1133 569">→ This Nova Scotia legislation establishes procedures for YP's alleged to have violated provincial enactments, including municipal by-laws. The Act makes the provisions consistent with the YCJA and updates the legislation.</p> <p data-bbox="581 615 1032 716">The key changes brought about this legislation are listed in the Pocket Guide p. 114-118</p> <p data-bbox="581 762 1133 936">→ Ask the participants to open their guides to the appropriate pages. Go through the provisions of the Act, making special reference to each of the headings in the Pocket Guide.</p> <p data-bbox="581 982 1117 1125">The Young Persons Summary Proceedings Act will be replaced by the Youth Justice Act (YJA) on April 1, 2003. You should be familiar with the following:</p> <p data-bbox="581 1171 1341 1234">Age range - has been extended from 16 to 18 years and now includes all YP's over 12 years but less than 18 .</p> <p data-bbox="581 1281 1360 1344">Extrajudicial Measures and Extrajudicial Sanctions - principles similar to those in the YCJA have been added.</p> <p data-bbox="581 1354 857 1381">Police must consider :</p> <ul data-bbox="581 1428 1357 1682" style="list-style-type: none"> ● taking no further action ● having the YP dealt with by way of the Childrens and Family Services Act ● warning the YP ● issuing a caution ● referring the YP to a program or agency in the community, with the YP's permission <p data-bbox="581 1728 1401 1791">Formal extrajudicial sanctions via the N.S. Restorative Justice program are only to be used if lesser measures are not adequate.</p> <p data-bbox="581 1837 1425 1898">Statements - provisions have been added which are the same as in the YCJA.</p>	Pocket Guide p.114-118

Ticketing - a Summary Offence Ticket can be issued to a YP.

Pre-trial detention - authorization is no longer required to hold a young person. NOTE - there is the presumption that detention is not necessary.

Notice to parent - must be given in all cases of young persons age 12-17. NOTE - notice is not required for a young person aged 16-17 where the alleged offence is under the Motor Vehicle Act .

Conferences - may be called as with the YCJA . If the Province establishes rules all conferences will be conducted according to those rules , except those called by Judges or Justices of the Peace.

Sentences - a reprimand has been added as a possible sentence that may be imposed , while probation has been eliminated .

Restrictions on Custody - A court cannot order custody for an offence under this Act unless a YP:

- has failed to comply with non-custodial sentences and has a record, OR
- has committed an offence that has threatened the safety of another person, or caused them bodily harm.

The court must consider all alternatives to custody and find no reasonable alternative, or combination of alternatives before imposing custody.

Sentence Review - Sentences can be reviewed on the same grounds as reviews of sentences under the YCJA

Records - no record can be disclosed after two years have elapsed from a finding of guilt without an application to the court and notice to the YP

Transitional - if no proceedings are started before the YJA comes into effect a young person age 16-17 can be dealt with under the YJA .

→ How will these changes affect the procedures which you use for YP's who are alleged to have committed the type of offence covered by the YJA?

Closing Activities

Format and Time	Activity	Resources
<p>Large group exercise <i>30 minutes</i> (optional)</p>	<p>The burning bush revisited</p> <p>First, review the issues in the Parking Lot and address any unanswered questions.</p> <p>Then, unfold the flip chart pages taped to the wall in the earlier burning bush exercise. Going through each one in turn, ask participants what they have learned during the session that might address each issue. Participants can add remaining questions to their PRFs at the closing.</p>	<p>Parking Lot Burning bush flipchart pages</p>
<p>Large group activity <i>10 minutes</i></p>	<p>Closing the day</p> <p>Ask all participants to complete a PRF to give organizers an accurate list of participants. Invite them to include any unanswered questions about the Act or its implementation in their workplace on the form. All answers will be posted on the Web Site. Any participants who include their email address will also receive answers to their own questions. Make sure all questions are on PRFs, as the Parking Lot will be destroyed at the end of the session.</p> <p>Ask participants to complete the evaluation forms.</p> <p>Please gather the evaluation forms and the PRF after the session and send them to:</p> <p>Larry Worthen <i>YCJA Training Coordinator</i> Nova Scotia Department of Justice 5151 Terminal Road PO Box 7 Halifax, NS B3J 2L6</p>	<p>Participants' Manual p. 1.7,1.8 Evaluation forms PRFs (collect separately from Evaluations to maintain confidentiality)</p>