

Teenagers and Criminal Justice

Did the Punishment Fit the Crime?

Fact Situation

Hi, my name is Costas and I'm 16. I spent my summer at the courthouse. I was on trial and was found guilty of killing a guy even though I didn't mean to. That's what they call "manslaughter" and it's pretty serious.

If I got it right, the judge was convinced that I did something dangerous that ended up killing somebody. Yes, I hit Jason, but it was his fault. He provoked me. Jason should have stayed away from my girlfriend. I don't regret anything I did. He deserved it.

When I saw Jason hit the ground and not move, I started to panic. He was bleeding. My girlfriend was in shock. She put her hands over her mouth and couldn't speak. The ambulance technicians saw right away that Jason was dead. But I only punched him once!

The police started asking me questions. They handcuffed me and took me to the police station. Everyone saw me hit him and a surveillance camera caught it all on tape.

Now the government lawyer taking the case to court against me (often called the "crown prosecutor") and the judge are wondering what to do with me.

I saw some psychologists who asked me a lot of questions. They wanted to know why I did it. They say I acted out of revenge and that I can't control myself. But it's the first time I ever hit anybody.

Remorse, remorse.....they wouldn't stop talking about remorse. I don't even know what that means, but it seems that I don't have any.

They also say I'm immature. I don't know why, but they're really stuck on the fact that I don't know who my father is and that my mother works nights. I was proud to tell them that I work in a warehouse to make money. I've pretty much given up on school. I was never really good at anything. Boxing is what interests me. I want to become a professional boxer.

I know that teenagers usually get less harsh punishment than adults for the same crime. They call these punishments "sentences". But the crown prosecutor wants to ask the judge to give me the same sentence as an adult because I was 16 when it all happened. I want to ask my lawyer if she thinks the judge can do that.

Question

Imagine that you are Costas' lawyer. Do you think the judge can give Costas the same sentence as an adult? Why?

Support your answer using laws on the subject that apply in Quebec and the principles in the *Convention on the Rights of the Child* (the "Convention").



Points to Consider

Now you know more about the rights of children and teenagers. Here are some points to consider when giving advice to Costas and answering the question:

- What differences do you see between sentences for adults and teenagers?
- When it comes to sentencing and rehabilitation, what are the needs of teenagers? What are the needs of adults?
- Do you think imprisoning a teenager is a good way to solve problems?
- For the same crime, do you think a 17-year-old deserves a lighter sentence than an 18-year-old?
- Do you think imposing an adult sentence on a teenager is contrary to the values of the Convention?
- Do you think sentences for teenagers are less effective than adult sentences?

Happy writing!

Legal Information to Help You Answer the Question

1. Can a teenager found guilty of a crime get the same sentence as an adult?

When someone is found guilty of a crime, the judge must decide on the sentence. A "sentence" means the consequences for the person found guilty.

Sentences for adults and teenagers are usually different because their situations are different. Canada has a specific sentencing system for people 12 to 17 years of age. This lets judges impose a wide range of sentences other than prison.

But in certain cases, judges can give teenagers 14 or over the same sentence as adults for the same crime. For example, if a teenager is found guilty of a crime for which an adult could receive a sentence of more than two years, such as assault, murder, manslaughter or sexual assault, the crown prosecutor can ask the judge to impose an “adult sentence”.

This is the case for Costas: the crown prosecutor is asking the judge to impose an adult sentence. This is because Costas was 16 when he hit Jason and was found guilty of manslaughter, a crime for which the adult sentence could be life imprisonment.

The Convention says...

Children should not be subjected to torture, or cruel, inhuman or degrading treatment or punishment. The Convention also states that a child should only be imprisoned as a last resort and for the shortest appropriate period of time.

Read Article 37 of the Convention.

2. Can judges in other countries impose adult sentences on teenagers?

Yes. In some countries, youth and adults receive the same sentences. Teenagers can therefore go to prison for several years. For example, in some American states, a teenager found guilty of murder can be sentenced to life imprisonment.

Teenagers can even be sentenced to death in some countries. According to Amnesty International, in the past 30 years at least nine countries have sentenced teenagers to death: Saudi Arabia, China, the United States, Iran, Nigeria, Pakistan, the Democratic Republic of Congo, Sudan and Yemen.

The Convention says...

People below 18 years of age should not be sentenced to death or given life in prison without the possibility of eventually being released.

Read Article 37 of the Convention.

3. What does a judge consider when sentencing a teenager?

It can be difficult for a judge to decide on the appropriate sentence for a teenager. The sentence must be severe enough that the teenager accepts responsibility for her or his actions. But sentences are not only meant to punish or prevent teenagers from committing another crime. The goal is also to help teenagers do three things: learn from their mistakes, understand the importance of respecting the rules and function well in society. The sentence must, therefore, protect society today and in the future.

Judges must therefore apply certain criteria when making decisions. For example, they will consider these criteria:

- the extent of the teenager's involvement in the crime
- how much time the teenager might have spent in jail before being sentenced
- whether the teenager has a criminal record
- the teenager's general life situation
- whether there was a victim of the crime, and whether the victim was physically or psychologically injured

4. What kinds of sentences can judges impose on teenagers?

Judges have several sentencing options. A sentence must be appropriate for the teenager's age and life situation.

First, there are sentences that do not involve physical confinement. For example, a judge could order a teenager to pay a fine, pay the victim money as compensation or perform a specified number of hours of community service. A judge could also verbally reprimand the teenager on the fall-out of her or his actions.

There are sentences that deprive teenagers of their freedom of movement and that involve a form of confinement. For teenagers, this confinement is referred to as "custody" instead of "detention".



Being sentenced to time in custody is comparable to an adult being sentenced to time in prison or a penitentiary, except that the teenager serves the sentence in a Youth Centre instead of a prison or a penitentiary.

But if a judge considers that sentencing a teenager to custody is not justified, the judge can also put a teenager on probation. A teenager on probation must respect certain conditions. The goal of probation is to get the teenager back on track without spending time in custody.

Here are some examples of conditions that could be imposed:

- exhibit good behaviour
- weekly meetings with a person responsible for monitoring the teenager
- not allowed to contact certain people
- not allowed to be in certain places

The judge can also require a teenager to follow a therapy program for violent behavior or a drug habit.

A teenager who forgets or does not respect conditions imposed by the judge commits a new crime and could be given a new punishment.

The Convention says...

Children found guilty of crimes must be treated in a manner that encourages their reintegration and their taking constructive roles in society.

Read Article 40 of the Convention.

5. Costas was found guilty of manslaughter. What kind of sentence could he get?

As a teenager who committed manslaughter, Costas could be placed in custody for up to three years. For the first part of that time, he would be physically confined to a Youth Centre. For the rest of the time, he would be free but under supervision and with several conditions to respect, such as not contacting certain people. If he doesn't respect the conditions, he could be returned to custody.

If Costas is given the same sentence as an adult found guilty of manslaughter, in the worst-case scenario he could be sentenced to life imprisonment. (There is no minimum prison time for manslaughter.)

6. Could Costas be sentenced as an adult?

In certain cases, the crown prosecutor can ask the judge to give a teenager an adult sentence. This has serious consequences since adult sentences are much more severe.



A judge can give an adult sentence if the judge believes that

- the teenager should not get special treatment even if he or she is not yet an adult, and
- a teenage sentence would not be enough to hold the teenager responsible and discourage him or her from committing other crimes.

In the past, these factors have been submitted to judges to help them decide if an adult sentence is necessary:

- the circumstances of the crime (for example, if the teenager is a member of a street gang)
- the teenager's age, maturity and personality
- whether the teenager shows remorse (expresses regret)
- if the teenager has a criminal record for crimes in the past
- other factors relating to the crime or the teenager's situation, for example, the length of the adult sentence, the impact of the crime on the victims and the teenager's psychological profile

The Convention says...

Decisions concerning children must be in their best interests. Judges deciding on sentence for teenagers must ask what is in the teenager's best interests.

Read Article 3 of the Convention.

7. Sentences for Teenagers and the Convention on the Rights of the Child

In Canada, the criminal justice system and sentences for people under 18 must respect the rights set out in the Convention. When deciding whether to impose an adult sentence on a teenager, a judge's primary consideration must be the teenager's best interests.

Other Resources

[Understanding Criminal Law](#)

[Responsibility for Criminal Acts](#)

[Getting an Adult Punishment](#)