

## A NOTE ON CONDUCTING RECORD CHECKS ON YOUTH

There are two kinds of criminal convictions:

- Youth, for those under 18 pursuant to the Youth Criminal Justice Act (YCJA), and
- Adult, under the Criminal Code of Canada.

The types of criminal offences are always defined in the Criminal Code. So, for example, if a sixteen-year-old is picked up for Impaired Driving, he is charged pursuant to the applicable section of the Criminal Code. The process by which he is prosecuted and by which the charge is disposed (whether by conviction, acquittal, stay of proceedings, conditional or absolute discharge) are pursuant to the Youth Criminal Justice Act.

A prominent feature of the YCJA is Section 119 which deals with the disclosure of court disposition information once it is reached. Typically, Section 119 prevents the disclosure of YCJA court dispositions for virtually all purposes and certainly for purposes of background screening. The notable exceptions are for people being screened for positions with the provincial or federal government.

There are provisions in the YCJA to elevate a youth to adult court. Each province and territory determines the minimum age at which a youth may be elevated to adult court (which can result in an adult criminal record if a conviction is reached). Plus, the prosecution must convince the youth court judge that the offence in question is sufficiently heinous in nature and that the public interest is served to elevate the youth to adult court. This rarely occurs.

Therefore, coaches who are under 18 will not cause a conviction to be disclosed. If they have youth convictions, per the YCJA, they will never be disclosed nor is the applicant required to declare them (Sterling's process correctly instructs applicants not to disclose YCJA convictions).

However, if the youth was elevated to adult court and subsequently convicted, the Sterling process will find and disclose such a conviction.

Recommendation: The RCMP officer providing this information claims that screening any coach who is under the age of 18 for criminal convictions is unproductive and doubts any convictions would be uncovered. We encourage screening of youth under 18 using other processes (reference checks, interviews, etc.) and using the E-PIC for those 18 and older, as any pending adult charges would be discoverable. Note that if the 18-year-old has pending matters before a youth court or prior youth convictions, that information would not be disclosed per the YCJA restrictions.

