

Information Sharing Related to the *Youth Criminal Justice Act*

**For School Divisions, the Conseil des Écoles Fransaskoises and
Youth Justice Services Personnel**

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Prepared by the ministries of Education and
Corrections and Policing

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The contents of this document will be reviewed periodically and updated every five years to ensure that the content is current and accurate. Comments and suggestions for revisions can be forwarded to the Ministry of Corrections and Policing or the Strategic Policy and Planning branch, Ministry of Education, at: www.saskatchewan.ca/government/directory?ou=c478de77-7f66-4342-9b73-6a6cf83f2ef6.

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PURPOSE

The *Youth Criminal Justice Act* (YCJA) is a federal law that contains specific requirements pertaining to the collection, publication, access and destruction of information pertaining to young persons who are involved with extrajudicial sanctions, have been charged with an offence, or have been found guilty and sentenced for an offence under the YCJA.

This document has been developed to support the work of individuals who are involved with a young person's rehabilitation and reintegration into a community:

- **school division, Conseil des écoles fransaskoises and school personnel** including directors or designates such as superintendents, coordinators, consultants, counsellors, school principals, vice-principals, teachers and other staff in the school; and,
- **young offender services personnel**, including community/facility youth workers.

This document is intended to promote effective and appropriate information sharing so that school division or Conseil des écoles fransaskoises and young offender services personnel have the information they require to:

- understand the legal requirements that must be met to protect a young person's privacy;
- share information in an appropriate manner; and,
- support collaboration in rehabilitating and reintegrating young persons into the community.

- For the purposes of this document, "young person" is used to reference a "young person in conflict with the law."
- While every effort should be taken to return young persons to their neighbourhood schools, school divisions and the Conseil des écoles fransaskoises have the authority to determine the school or program the young person will attend.
- In many cases, directors of education of school divisions or of the Conseil des écoles fransaskoises may delegate responsibility regarding sharing of information to specific individuals within the organization such as superintendents, coordinators or principals. For the purposes of this document, the school division or Conseil des écoles fransaskoises personnel will be referred to as "the director or designate."
- Definitions of other terms used in this document can be found in **Appendix 1** on page 18.

BACKGROUND

The goals of the YCJA are to protect society and to manage and reduce the risk of offending for young persons ages 12 to 17 years.¹ Individuals 18 and older who are charged with an offence committed prior to their 18th birthday can be sentenced and supervised as a young person under the YCJA. Communication among school division personnel, Conseil des écoles fransaskoises and young offender services personnel requires a collaborative, coordinated approach. When planning for a young person's return to school, the emphasis should be on the young person's strengths and areas where support may be needed in the new school environment.

The principles of the YCJA indicate a commitment to protecting the public by:

- holding a young person accountable through meaningful consequences for their offences;
- promoting rehabilitation and reintegration of young persons into society; and,
- preventing crime by addressing the circumstances underlying offending behaviour.

The YCJA protects the privacy of a young person's personal information. Unauthorized disclosure² of a young person's personal information can have serious consequences, including potential criminal charges, for the person who discloses the information. However, the sharing of information among the school division or the Conseil des écoles fransaskoises and young offender programs personnel who provide services to young persons **is permitted under subsections 125(5) and (6) of the YCJA for the following reasons:**

- to ensure that educational, rehabilitative and reintegration supports are in place;
- to satisfy safety concerns regarding the young person, victim and witnesses, as well as other children, youth and adults, including school staff;
- to ensure compliance with court orders; and,
- to obtain information for the preparation of reports.

School divisions and the Conseil des écoles fransaskoises have the authority under *The Education Act, 1995*, to determine the school or program the young person will attend and to designate the school division or the Conseil des écoles fransaskoises personnel with whom the information can be shared.

There may be many processes in the transition of young persons from custody to school; the preferred model includes the development of a transition plan developed by school divisions or the Conseil des écoles fransaskoises and an Individual Safety Plan/Community Safety Plan (ISP/CSP) developed by Corrections and Policing. The plans developed for a young person will vary on an individual basis and by school division or

¹ A young person who has not had his/her 18th birthday.

² Under section 2 of the YCJA, "disclosure" is "the communication of information other than by way of publication."

the Conseil des écoles fransaskoises.³

These documents provide a written record of student specific:

- short- and long-term transition plans for returning to school;
- development of specific outcomes to foster success;
- support personnel (at school, from the school division or the Conseil des écoles fransaskoises, and within the community) who will assist the young person in achieving written outcomes; and,
- plans for monitoring and assessing outcome achievement.

LEGISLATIVE CONTEXT

Information sharing within this document is subject to the following legislation:

- *Youth Criminal Justice Act*;
- *The Education Act, 1995*;
- *The School Division Administration Regulations*;
- *The Health Information Protection Act (HIPA)*;
- *The Freedom of Information and Protection of Privacy Act (FOIPP)*; and,
- *The Local Authority Freedom of Information and Protection of Privacy Act (LAFOIPP)*.

Each of these is discussed in detail in the following sections.

Youth Criminal Justice Act (YCJA)

The YCJA broadly defines the processes that federal and provincial criminal justice systems (and others) use to respond to young persons in conflict with the law. In regard to publication, under the YCJA, a young person's record and identity are kept confidential unless the youth justice court decides that information can be released. This safeguard is intended to limit the prejudicial impact for a young person of being labeled as an "offender" and, therefore, improve the likelihood of the young person's rehabilitation and reintegration.

The YCJA identifies the individuals who may have access to and receive disclosure of a young person's information and specifies the circumstances in which it may be disclosed. On a case-by-case basis, information that is shared *may not necessarily* include the disclosure of all of the young person's information. Youth workers are responsible for maintaining a balance between providing information and respecting a

³ Personal school board generated transition documents that contain young person specific information must observe the period of access requirements for storing young person information as per the YCJA. The Inclusion and Intervention Plan (IIP) may support the educational/learning needs of a young person, whereas the Individual Safety Plan or a Community Safety Plan may support the reintegration of the young person.

young person's statutory right to privacy, assessing each circumstance on a case-by-case basis.

The YCJA has a number of sentencing options that a judge can use, as well as mandatory and optional court-ordered conditions. These conditions can include, among others:

- curfew;
- addictions assessment and treatment;
- school attendance;
- abstaining from the use of intoxicants; and,
- restitution or community service orders.

The YCJA also has provisions respecting the use of extrajudicial sanctions (EJS) for dealing with the young person's offences outside the justice system. Part of the resolution can include completing the terms and conditions of an agreement requiring a young person to attend school, employment, treatment and/or other programs for a specified length of time. Persons responsible for EJS can include a youth worker, contracted service provider, or representative from a community-based organization.

The YCJA's specific requirements pertaining to the collection, use, publication, access and destruction of information regarding young persons are contained in **Appendix 2** on page 20.

The Education Act, 1995

The Education Act, 1995, is a provincial law that establishes the requirements for the Prekindergarten to Grade 12 education system in Saskatchewan.

Subsections 85, 86, 87, and 88 of *The Education Act, 1995*, provide boards of education and the conseil scolaire the authority to determine the division, school or program that the young person may attend. Section 175 of the Act outlines the duties of principals and section 231 the duties of teachers.

The School Division Administration Regulations

The School Division Administration Regulations, pursuant to *The Education Act, 1995*, are regulations that outline the operational requirements for boards of education/conseil scolaire concerning the Prekindergarten to Grade 12 education system. Section 45 of these regulations defines the duties of the directors.

The Health Information Protection Act (HIPA)

HIPA is provincial law that applies to trustees of personal health information defined in the Act as including government institutions subject to FOIPP, the Saskatchewan Health Authority, regulated health professions and others. Local authorities are not subject to HIPA. HIPA provides rules regarding collection, use, disclosure and protection of

personal health information. HIPA also provides individuals with a right to access their own personal health information in the custody or control of a trustee.

HIPA allows personal health information to be used or disclosed by a trustee for a number of purposes. Most significantly, HIPA allows use or disclosure:

- with deemed consent: “deemed consent” means that a person’s consent exists for purposes specified in the law. Consent does not have to be collected because the law says it is deemed to exist, such as when an individual is unable to consent (i.e., emergency situations);
- with expressed consent: “express consent” means a person is fully informed and has indicated consent verbally or in writing; and,
- for other purposes provided for in sections 27-29, “implied consent” means a person’s consent was not expressly granted, but rather implicitly given if the purpose of the collection, use and disclosure is consistent with the original purpose, and the purpose is or will become reasonably obvious to the individual. Additionally, it is reasonable to expect the individual would consent (i.e., referral from your doctor to a specialist).

For additional information about HIPA, please visit

www.saskatchewan.ca/residents/health/accessing-health-care-services/your-personal-health-information-and-privacy#health-information-protection-act.

The Freedom of Information and Protection of Privacy Act (FOIPP)

FOIPP is a provincial law regarding the right of access to Government of Saskatchewan documents and a duty to protect personal information with respect to the collection, use or disclosure of personal information held by the Government of Saskatchewan. Section 28 of FOIPP provides acceptable purposes for a government institution to use personal information and section 29 establishes the rules for disclosure. *The Freedom of Information and Protection of Privacy (FOIPP) Regulations* also permit information to be shared. For example, personal information may be used or disclosed:

- for the purpose for which the information was collected or a consistent purpose [FOIPP: clause 29(2)(a)];
- to the police on their request for the purpose of enforcing a law or carrying out a lawful investigation [FOIPP: clause 29(2)(g)];
- where necessary to protect the mental or physical health or safety of a person [FOIPP: clause 29(2)(m)];
- where disclosure may reasonably be expected to assist in the provision of service for the benefit of the individual to whom the information relates [FOIPP Regulations: 16(1)(c)];
- to an officer as defined in *The Child and Family Services Act* (CFSA) for the purpose of managing case files, including carrying out an investigation pursuant to *The Child and Family Services Act* [FOIPP Regulations: 16(1)(r)]; and,
- with consent from the identified person.

For additional information about these sections and other situations where personal information may be disclosed, select the link to FOIPP in the **Additional Resources** section on page 17.

The Local Authority Freedom of Information and Protection of Privacy Act

The Local Authority Freedom of Information and Protection of Privacy Act (LAFOIPP) is a provincial law regarding the right of access to documents and a right of privacy with respect to personal information held by local authorities, which include boards of education and the conseil scolaire. The relevant provisions of LAFOIPP are similar to those of FOIPP.

The Local Authority Freedom of Information and Protection of Privacy Act (LAFOIPP) applies to all documents collected, compiled, used and disclosed by local authorities. Boards of education and the conseil scolaire must have meticulous and transparent policies and/or procedures governing access to these records. In addition, the YCJA requires that the records regarding young persons involved with the justice system must be stored separately from other records in a secure location and kept for only certain periods of time. **Appendix 3** on page 21 provides an overview of how the YCJA impacts schools.

Both FOIPP and LAFOIPP allow the disclosure of personal information for the purpose of complying with an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada such as the YCJA.

Note: the doctrine of paramountcy is at play here. The doctrine establishes that when there is a conflict between a provincial and a federal law, the federal law prevails, but only to the extent of the conflict. In this case the YCJA sets out access and disclosure provisions – this would prevail over the FOIPP disclosure provisions.

ISSUES AND QUESTIONS

Why should a school division or the Conseil des écoles fransaskoises and young offender services personnel share information?

Under the YCJA, there are a number of circumstances⁴ when schools may be asked for information **to assist in the management of a young person's case**, and have the ability to disclose the requested information, including:

- preparing court reports and completing risk assessments;
- participating in case conferences;
- developing individual case plans and community safety plans in cooperation with other service providers and professionals to assist in the supervision and rehabilitation of the young person; and,
- addressing safety concerns.

Information is required from a school division, Conseil des écoles fransaskoises and young offender services personnel in order **to assist the court in making decisions**.

These decisions may include:

- extrajudicial measures or sanctions (formerly known as alternative measures in the youth context);
- judicial interim release (bail);
- the type of sentence; or,
- the conditions to be included in the court order.

Disclosure of information may be necessary **to ensure compliance by a young person** who has received a court order (e.g., a probation order) that may contain conditions such as:

- attending school;
- obtaining or continuing employment;
- participating in a program for employment or education/training;
- attending mental health or addiction treatment services; and/or,
- imposing non-association conditions, which means that the youth is not allowed to have contact with a certain person or group of persons.

Under the YCJA, information about a young person may be disclosed to any professional or other person engaged in the supervision or care of a young person for specific purposes that include:

- assisting a community youth worker or his/her supervisor to prepare a report for the court;
- facilitating the young person's rehabilitation and reintegration;
- ensuring compliance with a court order; and/or,

⁴ The table on pages 8 and 9 lists the type of information that can be shared.

- ensuring the safety of students, staff and other persons, including victims and witnesses.

Within the context of this document, what is disclosure?

Disclosure is defined in subsection 2(1) of the YCJA as “the communication of information other than by way of publication.”⁵ Disclosure is intended to ensure that the young person abides by a court order and is rehabilitated by appropriate programming and services, and that the safety of staff, students and others is protected.

To whom may information be disclosed?

If disclosure is necessary, the provincial director,⁶ a youth worker, the Attorney General (Crown Attorney), a peace officer or any other person engaged in providing services to young persons may disclose information contained in a record (kept under the authority of sections 114 [police records], 115 [government records] and 116 [court records] of the YCJA) to any professional or other person engaged in the supervision or care of a young person. This includes a representative of any board of education, the conseil scolaire, school, or any other educational or training institution. The director or designate and/or principal may disclose information to other staff in the school when it is necessary to:

- ensure a young person abides by a court order;
- facilitate the young person’s rehabilitation and reintegration through an integration of services; or,
- ensure the safety of staff, students and others.

What type of information can be shared among a school division, the Conseil des écoles fransaskoises and young offender services personnel?

The following information can be shared among young offender services and personnel from a school division or the Conseil des écoles fransaskoises. The information also may be shared with the young person and/or the young person’s parent or guardian.

Type of Information	Details
Demographic	<ul style="list-style-type: none"> • young person’s name, age and address • young person’s family • contact information
Legal	<ul style="list-style-type: none"> • nature of the offence (for example, property or violence)

⁵ Publication is defined as the communication of information by making information known or accessible to the general public through any means, including print, radio or television broadcast, telecommunication or electronic means.

⁶In Saskatchewan, this function has been delegated to the Assistant Deputy Minister, Custody, Supervision and Rehabilitation Services, Ministry of Corrections and Policing.

Type of Information	Details
	<ul style="list-style-type: none"> • nature of the report required by youth court and specific description of the reason for the request for information • timelines regarding when the information is required • history of the young person's offences and measures taken related to the young person • type of order and conditions with which the young person is expected to comply, including the particular terms of the order that relate to school attendance or any other matter such as non-association with another student • expected expiry date of the order • safety concerns regarding staff, students or other persons
Program	<ul style="list-style-type: none"> • environment to which the young person is returning, including the school • interview information • recommendations from the community youth worker • student attendance • student program of courses at school and/or information to enable the completion of an Inclusion and Intervention Plan (IIP)
Response to Services	<ul style="list-style-type: none"> • young person's performance and behaviour in activities, such as school or employment • nature of any incidents giving rise to imposed discipline • period to which the information relates • planning and interventions that have been put in place • indication of the need for special supervision • information about the personality, character, maturity level, behaviour and attitude of the young person • information about the young person's willingness to make amends and/or participate in rehabilitative programming
Other	<ul style="list-style-type: none"> • any other information that is relevant to either case planning or development of an IIP

The information sharing must be in accordance with the provisions of the YCJA.

What are some examples of the kind of information that cannot be shared by youth workers?

Information is shared on a need-to-know basis and is shared within the reasons that the YCJA permits (see **Appendix 2** on page 20). Examples of information that would not be shared include *full details* of offences like auto theft, break and enter, drug trafficking and sexual assault. Moreover, information about a young person's history of offending cannot be shared if the access period has expired. See **Appendix 3** on page 21.

How can information be shared?

As the YCJA does not specify how information should be shared, it can be shared verbally or in writing. For example, portions of the IIP or the Individual Safety Plan/Community Safety Plan (court-ordered conditions, programming plans, safety agreement) may be shared during a telephone call or meeting, or in writing, including ministry approved email systems (young offender services personnel only), if the young person is expected to attend school and schools have a role in supporting this. Information cannot be shared via personal devices or non-government, non-school division or non-conseil scolaire technological devices including cell phones, laptops, Ipads, etc.

Does this document impact the Community Violence Threat Risk Assessment (VTRA) agreement in communities?

No, it does not. The sharing of information is carried out by any of the VTRA partners on a proactive basis to avert or minimize imminent danger that affects the health and safety of any person. When disclosing personal health information during the VTRA process, the disclosing party must ensure that:

- the information disclosed is on a need-to-know basis only; and,
- only the minimum amount of information that is reasonably necessary to benefit the health or well-being of any individual is shared.

Does this document impact the Hub agreement in communities?

No, it does not. Provisions (FOIPP, LAFOIPP, HIPA, *The Youth Drug Detoxification and Stabilization Regulations*) allow for the disclosure of personal information and personal health information for the purpose of carrying out a common or integrated service, defined in the regulations as: "a program or activity designed to benefit the health, safety, welfare or social well-being of an individual that is delivered by a government institution and one or more of the following:

- another government institution;
- a local authority;
- a trustee as defined in HIPA;
- a First Nation;

- a police service or regional police service as defined in *The Police Act, 1990*;
- the Royal Canadian Mounted Police;
- a non-profit organization that provides a service of the type to be included in the common or integrated service; and,
- any other agency or organization that the Minister determines is appropriate (an information sharing agreement governing the collection, use, and disclosure of personal information and personal health information is typically in place between the parties participating in the common or integrated service)."

The regulations facilitate the disclosure of essential personal information and personal health information between government institutions, local authorities and third party agencies that are delivering common or integrated service programs with or for the provincial government. The regulations facilitate information sharing associated with the Hub agreement. They also permit information sharing for the purposes of other multi-agency programs where integrated services are involved.

The YCJA is federal legislation that applies to youth (ages 12 to 17) involved in the criminal justice system, either charged or convicted of an offence, or as a witness. The YCJA sets out clear provisions with respect to access periods and disclosure of a youth's personal information; these provisions are paramount to provincial legislation and should be applied whenever the Hub discussion pertains to a youth as defined above. Note: a youth's personal health information is governed under the provisions of HIPA.

Under section 125 of the YCJA, information may be shared by the provincial director, a youth worker/probation officer, the Attorney General, a peace officer or any other person engaged in the provision of services to young persons. Any information contained in a record kept under sections 114 to 116 may be disclosed to any professional or other person engaged in the supervision or care of a young person if the disclosure is necessary to:

- ensure compliance by the young person with an authorization under section 91 or an order of the youth justice court;
- ensure the safety of staff, students or other persons; or,
- facilitate the rehabilitation of the young person.

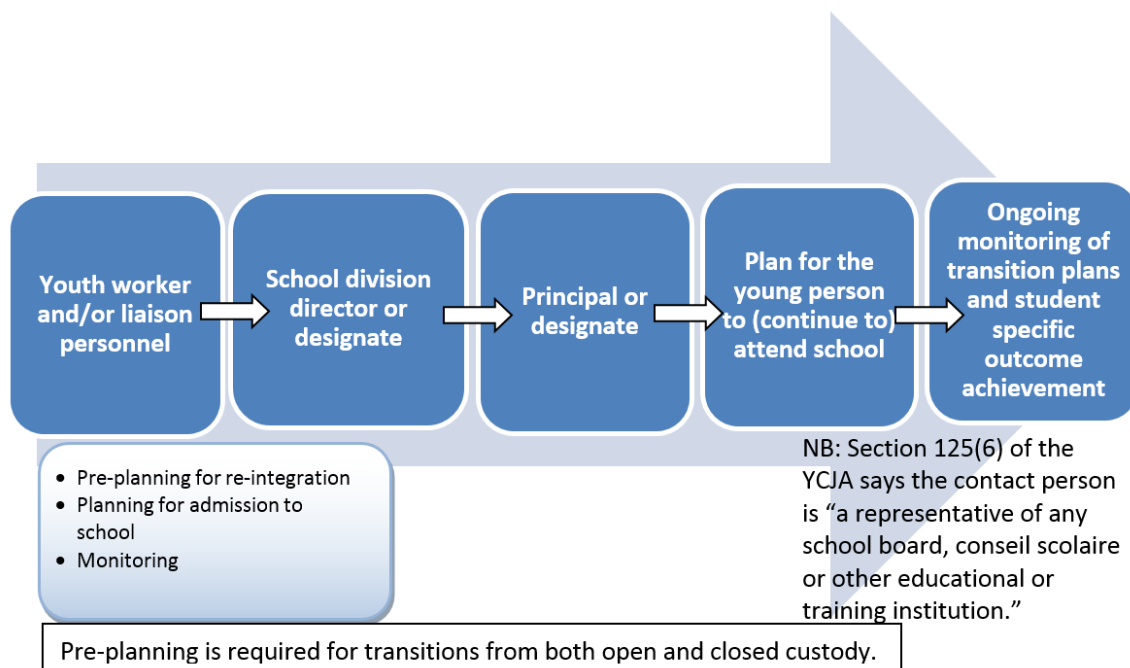
The YCJA Saskatchewan Order in Council also provides for integrated service delivery (Hub) discussions to take place respecting young persons subject to the YCJA. It provides access to those party to an Information Sharing Agreement (ISA) for the purpose of identification and delivery of an integrated service for a young person or his or her family (an ISA is required).

Who should a youth worker contact to begin planning for the reintegration of a young person?

The director of education for each school division or the Conseil des écoles fransaskoises is responsible for delegating the responsibility for a young person's return to school. Therefore, the first point of contact should be the director or designate.

For a young person returning from custody, the youth worker will work in collaboration with the director or designate to facilitate the young person's reintegration into school.

Recommended Process for Transitioning Youth to School



This process is preferred because it ensures appropriate planning, alignment of resources and accountability.

When planning for a young person's return to school, emphasis should be on the young person's strengths and areas where support may be needed in the new school environment.

What should a director or designate do if she/he has evidence that a student is not complying with the requirements of a court order?

As one of the reasons for sharing information is to **ensure** compliance by the young person with an order of the youth justice court, the information must be reported immediately to the youth worker. However, it would also be in the best interests of the young person and the school if information regarding the young person's progress is

regularly reported and shared by both youth worker and school division or Conseil des écoles francsaskoises personnel.

Should parents/guardians be informed when a young person's information is shared with another agency?

Wherever practicable, school divisions and the Conseil des écoles francsaskoises personnel do need to inform parents or guardians when sharing information with another agency. Alternatively, youth workers are required to have youth and parents sign an agreement to share information with schools. **Appendix 2** on page 20 sets out when sharing information regarding a young person's involvement with the justice system is permitted under the YCJA.

Will youth workers share information to ensure that safety concerns are addressed?

Youth workers will share information with the school division, Conseil des écoles francsaskoises or school personnel in order to ensure the safety of staff, students or other persons. For example, if a young person has assaulted or threatened another student at the school and a condition of his/her bail or sentence is that he/she is not to have contact with that student, the youth worker will notify the school division, Conseil des écoles francsaskoises or school personnel of the condition. The director or designate will then take the necessary steps to address, monitor and plan for the safety of all students and staff.

What does a rating of "high risk to re-offend" mean?

All young persons serving a supervised sentence will be assessed for their level of risk to re-offend generally (very low-1 to very high-5 on the Level of Service Inventory Saskatchewan Edition risk assessment). Where a young person is assessed as high to very high risk to re-offend, an intensive level of supervision, supports and services are put in place to address the risk factors (e.g., truancy, addictions, negative peer associations, anti-social patterns of behaviour) in order to reduce their risk of re-offending.

Are there penalties for not sharing information?

While there are no specific penalties for not sharing information, information must be shared where it is required to support the rehabilitation of the young person and to ensure the safety of the community.

Are there penalties for inappropriately sharing information?

Criminal charges can be laid for the unauthorized sharing of confidential information. An example of unauthorized sharing would be if a person with authority to have information about a young person shares the information with school personnel not associated with the student, and who play no part in the supervision or control of the student. If convicted, the person may face a sentence of up to two years incarceration.

Who is responsible for maintaining YCJA files in the school division?

The school division or Conseil des écoles fransaskoises director or designate with responsibility for supervision of the school the young person is attending has responsibility for maintaining the YCJA files under advisement of the privacy officer of the school division or the Conseil des écoles fransaskoises.

How do the director or designate and principal manage information that is disclosed?

The director or designate and principal are required to ensure that information pertaining to a young person is managed properly, including:

- sharing information for only the reasons identified in the legislation (see pages 3-6) and sharing it only with individuals on a need-to-know basis;
- storing YCJA information and records separately and securely from other school records;
- properly transferring or destroying the information at the end of the access period and/or managing the information according to legislated retention/destruction schedules. **Appendix 3** on page 21 has detailed information about periods of access; and,
- ensuring that their copy of the record is destroyed when the information is no longer required for the purpose for which it was originally disclosed.

How should information regarding a young person's involvement in the justice system be stored?

This information must be kept separately and securely from other records that relate to the young person (for instance, the Cumulative Record at the school level⁷). Electronic files or young offender information must be password protected and care must be taken with sensitive information. No person other than the director or designate can see and have a copy of the record, and only for the purposes of:

- ensuring compliance with a court order;
- ensuring safety of staff, students or other persons; and,

⁷ This approach is also outlined in the *Student Cumulative Record Guidelines*, <http://publications.saskatchewan.ca/#/products/74158>.

- facilitating the rehabilitation of the young person.

While the YCJA prescribes the separate storage of YCJA records, there is also an administrative advantage to keeping this information separate from other records because the information can be easily destroyed without having to sort through and purge the youth's other records.

In the event that electronic information is outsourced to an external information technology organization, the management of the electronic records must be in compliance with the YCJA, FOIPP, and LAFOIPP.

What should happen to the information when a young person transfers to a school within or outside the school division/Conseil des écoles fransaskoises?

In the event of a young person's transfer to another school, the director or designate should manage the transfer of information about the young person's involvement with the justice system, along with the young person's Cumulative Record, according to board of education or conseil scolaire policy.

If the information is no longer relevant or needed, it should be destroyed according to applicable legislation (and/or as described below where no legal requirements exist). In both cases, the designated personnel of the school division or Conseil des écoles fransaskoises should notify the youth worker of the transfer to ensure that the youth worker is aware that the information has been destroyed.

When should YCJA information about the young person be destroyed?

The destruction of information about the young person must be in compliance with the YCJA.⁸ YCJA information that is held on a young person cannot be maintained beyond the period of time that the information is relevant (e.g., a youth's six-month probation order ends and young offender personnel are no longer providing supervision) or the access period (see **Appendix 3** on page 21), whichever is sooner.

YCJA information, including electronic data, must be destroyed at the earliest of:

- when the purpose for which the information was provided no longer exists; or,
- at the end of the applicable access period; or,
- according to legal requirements.

Information cannot be disclosed after the end of the applicable access period.

⁸ This is also outlined in the *Records Retention and Disposal Guide for Saskatchewan School Divisions*, www.saskschoolboards.ca/wp-content/uploads/2015/08/Sep13_RecordsRetentionGuide.pdf.

How should information be destroyed?

Information contained in a physical record should be destroyed by secure means, such as shredding or burning. In the case of information in an electronic format, the information should be deleted, written over or otherwise rendered inaccessible.

SUMMARY

Sharing of information among school division or Conseil des écoles fransaskoises and young offender services personnel is critical to providing effective services to young persons involved with the justice system. Information sharing allows for the coordination of case planning and the implementation of appropriate rehabilitative supports. There are mechanisms built into the legislation for sharing of information when it is appropriate and limitations to protect the young person's identity. **Overall, the intent of information sharing is to provide optimal rehabilitation for the young person and safety for everyone.**

ADDITIONAL RESOURCES

Inclusion and Intervention Plan Guidelines

<http://publications.saskatchewan.ca/#/products/90799>

Student Cumulative Record Guidelines

<http://publications.saskatchewan.ca/#/products/74158>

The Freedom of Information and Protection of Privacy Act (FOIPP)

<http://publications.saskatchewan.ca/#/products/527>

The Health Information Protection Act (HIPA)

<http://publications.saskatchewan.ca/#/products/91085>

The Local Authority Freedom of Information and Protection of Privacy Act (LAFOIPP)

<http://publications.saskatchewan.ca/#/products/605>

The Records Retention and Disposal Guide for Saskatchewan School Divisions

www.saskschoolboards.ca/wp-content/uploads/2015/08/Sep13_RecordsRetentionGuide.pdf

The Saskatchewan Information and Privacy Commissioner

www.oipc.sk.ca

The Saskatchewan School Boards Association

www.saskschoolboards.ca

Youth Criminal Justice Act

www.laws-lois.justice.gc.ca/eng/acts/Y-1.5

Appendix 1

GLOSSARY OF TERMS

TERM	DEFINITION
community youth worker	An employee of the Ministry of Corrections and Policing who supervises a young person on court orders where a young person has been ordered by the court to report.
conference	A meeting that may be convened by a youth court judge, the provincial director, a police officer, a justice of the peace, a prosecutor or a community youth worker for the purpose of case planning.
court report	A report that the youth court judge may order to assist in sentencing or imposing conditions.
designate	A person who can act in the capacity of the director.
disclosure	<p>The communication of information other than by way of publication (i.e., the communication of information by making it known or accessible to the general public through any means, including print, radio or television broadcast, telecommunication or electronic means). Some examples are:</p> <ul style="list-style-type: none"> • A peace officer may disclose information in the conduct of the investigation of an offence. • A youth worker may disclose information contained in a record if the disclosure is necessary for accessing information that relates to the preparation of a report required by the YCJA. • The provincial director,⁹ a youth worker, the Attorney General, a peace officer or any other person engaged in the provision of services to young persons may disclose to any professional or other person engaged in the supervision or care of a young person, including a representative of any board of education, conseil scolaire, school or any other educational or training institution, information to either: <ul style="list-style-type: none"> ◦ ensure compliance of a court order by the young person; ◦ ensure the safety of staff, students or other persons; or, ◦ facilitate the rehabilitation and reintegration of the young person.
extrajudicial sanctions (EJS)	EJS is a way of resolving an offence outside of the justice system through the young person's participation in mediation or family group conferencing that may result in an agreement to address a young person's needs.
facility youth worker	Supervises and provides case management to a young person in a youth custody facility.
Inclusion and Intervention Plan	A written document developed and implemented by a collaborative team. It is a compilation of student outcomes that have the highest priority for the student during the year. IIPs are created and saved within the Saskatchewan Student Data System (SDS).

⁹ In Saskatchewan, this function has been delegated to the Assistant Deputy Minister of Young Offender Programs, Ministry of Corrections and Policing.

TERM	DEFINITION
justice officials	Police officers, judges and/or crown attorneys.
Level of Service Inventory (LSI)	<p>A structured professional judgement assessment, the LSI is the most comprehensive and popular instrument for assessing offender risk anywhere in the world. It assesses risk based on a broad array of eight different categories:</p> <ul style="list-style-type: none"> • criminal history; • family; • education/employment; • leisure and recreational activities; • peer association; • pro-criminal attitude; • anti-social pattern; and, • substance use.
meaningful	In relation to the principles of the YCJA, consequences that are significant, relevant, purposeful and individualized to the young person.
pre-sentence report	A report provided by a youth worker for the court when the young person has already been found guilty of an offence. It contains information that will assist the court in making a decision on the type of sentence to impose on a young person.
probation order	A judge may make a probation order that includes court-ordered conditions a young person is to abide by in the community for the duration of the probation.
need to know	The sharing of information required by an individual or organization to fulfill their roles and responsibilities. An administrative action certifying that a given individual requires specified confidential information in order to perform his or her assigned duties.
non-association	A court order specifying non-contact with a certain person or group of persons.
school division/Conseil des écoles fransaskoises/school personnel	Directors or designates such as superintendents, coordinators, consultants, counsellors, school principals, vice-principals, teachers and other staff in the school.
young offender services personnel	Community youth worker, facility youth worker, Judicial Interim Release Program Worker (JIRP Worker), supervisor, director of programs, operations or region.
young person in conflict with the law	<p>A young person who is 12 years of age or over, but less than 18 years of age, who is involved with extrajudicial sanctions, who has been charged with an offence or has been found guilty of an offence under the YCJA.</p> <p>An individual over the age of 18 is also protected by the YCJA information sharing requirements if they are still under charge or serving a YCJA sentence, or if the access period is still applicable.</p> <p>Throughout the document, “young person” is used to reference a “young person in conflict with the law.”</p>

Appendix 2

YCJA PROVISIONS REGARDING THE SHARING OF INFORMATION

Subsections 125(6) and (7)	
(1) A peace officer may disclose to any person any information in a record kept under section 114 (court records) or 115 (police records) that it is necessary to disclose in the conduct of the investigation of an offence.	
Schools and others	<p>(6) The provincial director, a youth worker, the Attorney General, a peace officer or any other person engaged in the provision of services to young persons may disclose to any professional or other person engaged in the supervision or care of a young person — including a representative of any board of education, conseil scolaire, or school or any other educational or training institution — any information contained in a record kept under sections 114 to 116 if the disclosure is necessary:</p> <ul style="list-style-type: none"> (a) to ensure compliance by the young person with an authorization under section 91 or an order of the youth justice court; (b) to ensure the safety of staff, students or other persons; or, (c) to facilitate the rehabilitation of the young person.
Information to be kept separate	<p>(7) A person to whom information is disclosed under subsection 6 shall:</p> <ul style="list-style-type: none"> (a) keep the information separate from any other record of the young person to whom the information relates; (b) ensure that no other person has access to the information except if authorized under this Act, or if necessary for the purposes of subsection 6; and (c) destroy their copy of the record when the information is no longer required for the purpose for which it was disclosed.

Appendix 3

ACCESS PERIODS*

SANCTION	PERIOD ENDING
Extrajudicial sanction	Two years after the young person consents to be subject to the sanction
Young person is acquitted of the offence otherwise than by reason of a verdict of not criminally responsible on account of mental disorder	Two months after the expiry of the time allowed for the taking of an appeal or; if an appeal is taken, the period ending three months after all proceedings in respect of the appeal have been completed
Charge dismissed for any reason other than acquittal, the charge is withdrawn, or the young person is found guilty of the offence and a reprimand is given	Two months after the dismissal, withdrawal, or finding of guilt
Charge is stayed with no proceedings being taken against the young person for a period of one year	At the end of the one-year period
Guilty finding, sentence is absolute discharge	One year after the young person is found guilty
Guilty finding, sentence is conditional discharge	Three years after the young person is found guilty
Guilty finding for a summary conviction offence, other sentence such as probation or custody imposed	Three years after the youth sentence imposed in respect to the offence has been completed
Guilty finding for an indictable offence, other sentence such as probation or custody imposed	Five years after the youth sentence imposed in respect of the offence has been completed
Guilty of a subsequent summary conviction offence, while already found guilty and convicted of a summary conviction or indictable offence	The latest of the period calculated for the previous summary conviction or indictable offence; and, the period ending three years after the youth sentence has been completed
Guilty of a subsequent indictable offence, while already found guilty and convicted of a summary conviction or indictable offence	Five years after the sentence imposed has been completed

* Period of access is defined as the period of time during which a youth record can be given to those listed in the YCJA. Access to a young person's record begins once the young person is convicted. The period of time after which access is denied starts once a young person has successfully completed all portions of the sentence.