

ACKNOWLEDGEMENTS & FOREWORD

INTRODUCTION

On behalf of the Regional Waterloo-Wellington Human Service and Justice Coordinating Committee, we are pleased to publish this Guide, Navigating the Youth Justice & Mental Health Systems.

Human Services and Justice Coordinating Committees – Provincial and Local History

“The Human Services and Justice Coordinating Committees (HSJCCs) were established in response to a recognized need to coordinate resources and services, and plan more effectively for people who are in conflict with the law. Priority consideration is for people with a serious mental illness, developmental disability, acquired brain injury, drug and alcohol addiction, and/or fetal alcohol syndrome. The committees were generated as a cooperative effort between the Ministries of the Attorney General, Community and Social Services, Children and Youth Services, Health and Long-Term Care, and Community Safety and Correctional Services. Regional and local committees were established to coordinate communication and service integration planning between health, criminal justice, and developmental service organizations within specific regions. The Provincial Committee, consisting of regional chairs and Ministry representatives, has been developed as a provincial planning body.” (Source: www.hsicc.on.ca)

Why this Guide?

In the summer of 2014, our local HSJCC was approached by Denise and Dwayne Jennings in their family’s search for answers. After a long series of engagements and struggles with a range of services, their son had ended his life by suicide. In the aftermath, Aaron Stauch (Manager with Lutherwood), Denise Jennings and Don Roth created a Discussion Paper (December 2014) that represented these challenges to our local system and our provincial HSJCC partners. What we discovered, was that these challenges were neither rare, nor intractable. We dedicated ourselves to support change and the creation of various resources, including this Guide to the Jennings’ family.

In exploring challenges, we found issues with the consent process. A variety of methods and approaches are used in receiving consent to participate in voluntary services. Frontline service providers may approach the issue too quickly, and raise concerns among participants, particularly youth who are not aspiring to become a “service recipient”. This leads to confusion and withdrawal from service. Moreover, a youth’s capacity to fully understand the costs of refusing treatment may be compromised by mental illness, problematic substance use, or stage of development. We found people with courage to ask hard questions, to be present, to listen.

We found issues in how relationships were being formed. Among youth service participants a variety of factors influence the potential for beneficial outcomes. Widely recognized as a major contributor is the development of a strong alliance and trusting relationship among helping professionals and youth. A standard best practice was missing. We found issues with a lack of access to information. Families are the core support system and structure for most youth. Where decisions to offer or decline services occur, that do not reflect the best interest of families or their members, and an appeal process should be invoked with the authority to review and deliver services. At times, the availability and quality of formal assessments or information provided may be lacking, and contribute to inadequate decisions, carrying forward with negative consequences for youth. The assessment processes require additional clarity, investment to ensure adequate information and rigor, and accountability in the delivery process. We found people who could help with that, people who wanted to make positive contributions.

We found issues with a lack of seamless service flow. While strong integration has been proposed and articulated as the strategic direction, service partners from various Ministries must develop

and actualize cross-functional agreements that default to an offer of service. A basic premise for such agreements should improve safe transitions of care and include a commitment to multiple complex diagnoses such as concurrent disorders (addiction and mental health), dual diagnosis (developmental and mental health), and conditions which may include a variety of physical disabilities whether created through physical trauma or arising from a genetic basis. We found room to improve use of empathetic perspective-taking approaches, and cultural safety and competency. Services in these sectors need to be designed from a customer perspective, and service providers must take an empathetic approach. Without the use of effective human-centred design principles, we unintentionally develop systems that are inaccessible, and complex to navigate. Services need to be sensitive to culture and language. We found a willingness to change.

Though many additional steps have been taken including provincial conference presentations, this Guide was developed as one part of our response. In addition to the Youth Criminal Justice Pocket Guide, you will find several recent Ontario publications of tremendous assistance: YCJA Section 34: Medical and Psychological Reports, (December 2014), Brock Jones, Crown Counsel, Criminal Policy, and, Young Persons and Forensic Assessments, (May 2015), Brock Jones, Crown Counsel, Criminal Policy. We were fortunate to have Mr. Jones' input on this Guide, and to have received very pragmatic assistance from Mr. Chris Higgins, Team Lead in the Forensic Mental Health Section, Provincial Programs Branch. We found some great leadership, right where it was needed.

THANK YOU

We are very pleased to highlight the contributions of people who provided materials, helpful suggestions and edits, and made the extra effort and time required to create a useful First Edition Guidebook. Your time and effort is greatly appreciated!

Rodney Cox - Youth Detective, Guelph Police Service

Lee Fitzpatrick - Director of Community Services, Waterloo Region Police Service

Ryan Fritsch - Policy Counsel, Legal Aid Ontario

Cynthia Jennison - Crown Attorney, Waterloo Region Courthouse

Brock Jones - Crown Counsel, Ministry of the Attorney General

Tracy Mancini - Youth Justice Coordinator, CMHAWWD

Mary-Jo Shearer - Program Manager Mental Health Services, Lutherwood

Gwen Sim - Sergeant, Waterloo Region Police Service; Child and Youth Advocacy Centre

Matthew W. Stanley - Defense Attorney, Guelph, Ontario

Angela Vanderheyden - Legal Aid Ontario

We are fortunate to have the assistance of Sarah Schindler who was hired to orchestrate the development of this resource, edit and ensure the layout/design was in keeping with the community intent. The efforts of Sharon Deally-Grzybowski and the partnership with Lutherwood and the HSJCC to oversee the production process are greatly appreciated.

Finally, for the youth in our communities, their family members, parents, friends and compassionate allies, we hope this guide will make a challenging journey a little easier. We hope you will experience the system a little more encouraging and welcoming. How can we help? It's why we're here.

Don Roth

Director Adult Services, Canadian Mental Health Association, Waterloo Wellington Dufferin

Funding for this guide of the Waterloo-Wellington Human Service and Justice Committee has been provided by the Waterloo Wellington Local Health Integration Network (WVLHIN).

The contents of this booklet are for general information purposes only and are not a substitute for legal advice from a qualified lawyer.

Ontario Ministry of the Attorney General

“Mentally disordered or developmentally disordered people often come into contact with the criminal justice system. These offenders should not be subjected to more onerous consequences than the general population, solely as a function of their disorder/disability.

In recognition of their particular circumstances, mentally disordered or developmentally delayed offenders may warrant special consideration within the criminal justice system, depending on the nature and circumstances of the offence and the background of the offender. This may require an emphasis on restorative and remedial measures, such as specialized treatment options, supervisory programs or community justice programs, as alternatives to prosecution. To the extent consistent with public safety, and in appropriate circumstances, offenders with mental disorders, and those who are developmentally delayed, should be given access to alternatives to prosecution.

Protection of the public, including the victim, if any, is the paramount consideration in the assessment of whether alternatives to prosecution are appropriate. No single factor will be determinative; however Crown counsel should consider the seriousness of the offence, public safety, and whether the consequences of prosecution would be unduly harsh, among other factors.”

(Source: Crown Policy Manual, Ontario Ministry of Attorney General)

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This booklet will refer to “Jacob”; an imaginary youth accused with mental health issues. Any resemblance to any person is unintentional.

The contents of this booklet are for general information purposes only and are not a substitute for legal advice from a qualified lawyer.

Please also look for the following symbols throughout the book:



System process



Helpful hints



Important information



Contact Information

1 INTERACTION WITH THE POLICE

Jacob can come into contact with the police in a variety of ways. Contact can happen in a public place, in a private home, by chance or by someone contacting the police, be it Jacob himself or another person calling about Jacob.

Before he enters the justice system, it is helpful for Jacob to have supports from family, the community and especially access to the social determinants of health such as housing, education, employment and income. In fact, having these supports in place can help prevent Jacob from coming into contact with the law to begin with. It is always good to make a plan when Jacob is well, including any signed documents with permissions for information before a crisis happens. It is also important to remember that if Jacob has a caregiver or someone in a support role, such as a trusted friend or family member, they may also need some support or help as they deal with the emotional impact of Jacob's contact with the justice system.

All police officers in Waterloo Region, Guelph and Wellington County have training in mental health issues, although their individual experience in dealing with mental health calls will vary. The type of call described as a “mental health call” can include many different scenarios, and the individual circumstances of each call will determine how an officer proceeds.



WRPS Headquarters: Courtesy of Waterloo Regional Police Service

As a young person Jacob will be subject to the Youth Criminal Justice Act (YCJA), which is the law that governs Canada's youth justice system. It applies to youth who are at least 12 but under 18 years old, and who are alleged to have committed criminal offences. Youth under the age of 12 cannot be charged with a criminal offence. The Act is designed to both hold young persons

accountable for their actions and to provide strategies and resources for their rehabilitation.

Police officers will use their discretion in deciding how best to handle a call. If Jacob has committed a crime, but the police believe laying a formal charge is not necessary, they may decide upon an alternative course of action. Police discretion will be influenced by many things, including the following:

- The seriousness of the crime;
- The actual violence or risk of future violence;
- The danger to members of the public or to Jacob himself;
- Jacob's prior police occurrences/prior youth record;

- Whether a weapon was used;
- Available supports, e.g. family, friends, crisis workers, etc.;
- Available alternatives, e.g. family doctor appointment, pre-charge diversion, hospital, etc.;
- Type of crime: The police have very limited discretion for some crimes, such as domestic violence offences, and firearms offences



In Waterloo Wellington, the vast majority of police calls are handled by three different police services.

Waterloo Region – Waterloo Regional Police Service

City of Guelph – Guelph Police Service

Wellington County – Wellington County Ontario Provincial Police (OPP)

If an occurrence happens on a provincial highway, such as the 401 or Highway 7, then the appropriate OPP detachment will take the call.

EXTRAJUDICIAL MEASURES

Although the YCJA permits significant sentences for serious and violent crime, alternative options referred to as extrajudicial measures, explained below, may be used for non-violent, minor offences such as:

- Theft
- Possession of stolen property
- Failure to comply with a Court Disposition
- Fraud
- Mischief/damage
- Minor Assault

The YCJA requires police officers to consider the use of extrajudicial measures before deciding to charge a young person. Police and prosecutors are specifically authorized to use various types of extrajudicial measures, as follows:

- **Take no further action**
- **Warnings**, If the offence(s) are minor, Jacob has no prior criminal record, and he is not a danger to himself or others, the officer may release Jacob at the scene with a warning.
- **Police cautions**, which are more formal warnings by the police. Police cautions may be in the form of a letter from the police to the young person and the parents/guardian, or they may involve a process in which the young person and the parents/guardian are requested to appear at a police station to talk to a senior police officer.
- **Crown cautions**, which are similar to police cautions but are given by prosecutors after the police refer the case to them.
- **Referrals**, which are referrals by police officers of young persons to community programs or agencies that may help them not to commit further offences. The referral may be to a wide range of community resources, including recreation programs and counselling agencies.
- **Extrajudicial sanctions**, which are the most formal type of extrajudicial measure, can be applied post-charge. Unlike the other types of extrajudicial measures, they may be used only

if the young person admits responsibility for the offending behaviour and consents to be subject to the sanction. If the young person fails to comply with the terms and conditions of the sanction, the case may proceed through the court process. An extrajudicial sanction can be used only if the young person cannot be adequately dealt with by a warning, caution or referral.

- **Other measures** as consequences including restitution and apologies.

The YCJA sets out clear objectives to guide the use of extrajudicial measures, including repairing the harm caused to the victim and the community; providing an opportunity for victims to participate in decisions; ensuring that the measures are proportionate to the seriousness of the offence; and encouraging the involvement of families, victims and other members of the community.

It should also be noted that extrajudicial measures are not applied progressively but rather on a case-by-case basis based on a number of factors including previous police contact for offending behaviour by the young person and youth attitude regarding the offence.



Police do not need parental consent to speak to a youth unless they have reasonable grounds to suspect the young person has committed an offence. If they do have such grounds, the young person must be provided with access to their parents or guardian unless the young person chooses to waive that right. Police, however, are required to serve a notice to parents/guardians in the event that a youth is arrested, held in custody or charges are laid.

Call Here 24/7

The local police services have written protocols with the Canadian Mental Health Association, Waterloo Wellington Dufferin (CMHA-WWD), that encourages officers to call Here 24/7 for assistance if it is suspected that Jacob is experiencing a mental health crisis. This option can be used for various offences, and will likely be used if Jacob is in crisis and requires assistance, but is not a danger to himself or others.

This option may be used as an alternative to laying charges or it may also be used when the charge(s) are being laid. In the second case Jacob will be released at the scene by way of an appearance notice or a summons.

In some areas of Waterloo and Wellington, psychiatric nurses have been hired by the Canadian Mental Health Association to accompany police to mental health crisis calls. Specialized Crisis Team (SCT) nurses can provide advice to the police officers on the scene as they assess the situation and Jacob's mental health needs. From there, they can help the police determine what is the most appropriate course of action for Jacob. The SCT can help Jacob with his mental health issues, arrange for short-term support and counselling, and, if necessary, accompany Jacob to the local psychiatric hospital.



If the call takes place during Monday to Friday work hours then the SCT will assist by transferring Jacob to Front Door (in Kitchener-Waterloo). If the call takes place after hours or on the weekend Jacob will be transferred to Front Door the next work day. A member of the SCT will share information with Front Door to ensure a smooth transition.



If you are a family member/friend and are with Jacob when police arrive, inform the police of Jacob's mental health issues before they interact with him. Once police get involved it is helpful and important to work with them. Give suggestions on how best to approach him and be open about your concerns and/or the actions being taken, but let the police take the lead.

If the police take Jacob into custody, offer them his medication and any instructions they will need for his care. Record the officers' names and badge numbers for future reference, and ask them to explain exactly what is happening and what your role can be. Take notes of what was said/what occurred for future reference.

Arrest or Apprehension under the Ontario's Mental Health Act

If Jacob has committed a criminal offence and meets the criteria under section 17 (see below), then the police will use their discretion to determine whether or not to proceed with criminal charges, apprehend Jacob under Ontario's Mental Health Act or both. The police will consider different factors in making that decision including: the seriousness of the crime, the severity of Jacob's mental disorder, and the risk of violence to himself or to the public.



Who lays the charge? In Ontario it is the police who lay the charge(s), not the victim of an offence. This means that if you call the police to respond to a crisis during which a criminal offence has occurred it is solely the police officer's decision as to whether charge(s) will be laid. Your input is considered, but does not necessarily influence the police decision.

Section 17 of Ontario's Mental Health Act allows the police to apprehend Jacob and take him to the closest psychiatric facility, if the below criteria are met.

Section 17 of the *Ontario's Mental Health Act*

Section 17 reads:

17. Where a police officer has reasonable and probable grounds to believe that a person is acting or has acted in a disorderly manner and has reasonable cause to believe that the person,
 - (a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself or herself;
 - (b) has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him or her; or
 - (c) has shown or is showing a lack of competence to care for himself or herself, and in addition the police officer is of the opinion that the person is apparently suffering from a mental disorder of a nature or quality that likely will result in
 - (d) serious bodily harm to the person;
 - (e) serious bodily harm to another person; or
 - (f) serious physical impairment of the person,

and that it would be dangerous to proceed under section 16, the police officer may take the person in custody to an appropriate place for examination by a physician.



Waterloo Wellington has three hospitals with psychiatric facilities:

Kitchener Waterloo – Grand River Hospital

Cambridge – Cambridge Memorial Hospital

Guelph/Wellington – Homewood Health Centre (Emergency Mental Health Unit)

Arrest

The more serious the charge(s), the more likely the Criminal Code and public safety concerns will take priority over Jacob's mental health issues and Jacob will be arrested. If public safety concerns can be addressed at the scene, Jacob may be released and given a date for a future court appearance. If they cannot, Jacob will be taken into custody and either released at the police station or held for bail court.

- If Jacob is arrested he has the right to know why and he must be told that he can contact and consult a lawyer of his choice. If Jacob wishes to speak to a lawyer, he must be given an opportunity to do so as soon as possible, and the police should not question him until after he has spoken to a lawyer, or waived his right to do so.
- As per the YCJA, the police are required to ensure Jacob consults with a parent, an adult relative or another appropriate adult, unless he chooses otherwise.
- As an alternative to contacting a lawyer of his choice, Jacob has the right to contact Legal Aid Ontario to seek the free assistance of a Legal Aid Duty Counsel. Legal Aid Duty Counsel is available 24 hours a day, seven days a week, to assist persons under arrest who choose not to speak to a defence lawyer of their choice.



Waterloo Regional Crime Stoppers is a not-for-profit community-based charity that brings together the cooperative efforts of the police, the media and the community in the fight against crime.

1-800-222-8477

waterloocrimestoppers.com

2 RELEASE FROM CUSTODY (BAIL)

RELEASE BY POLICE

If Jacob is arrested for an offence the type of police releases, from least restrictive to most restrictive, are as follows:

Summons

- Used for minor, non-violent offences.
- Jacob is arrested, but released at the scene without conditions. A summons is served upon him at a later date, outlining the charge(s) he is facing, and the date and time, courtroom number, and courthouse address for his first court appearance.
- The summons may also contain a separate date and time for Jacob to attend at a police location for his photograph and fingerprints to be taken for identification purposes.
- Also used to correct charge(s) – if the police have decided to lay more and/or different charge(s), a “corrective” summons may be used to inform Jacob of the changes and potentially a new court date.
- There are no conditions to obey.
- It is a criminal offence for Jacob not to attend his court date or his fingerprint date.

Appearance Notice

- Used for minor, non-violent offences.
- Jacob is arrested, but released at the scene after being given an appearance notice, which looks similar to a traffic ticket. The appearance notice will have a date and time for his first court appearance, as well as the courtroom number and courthouse location.
- The appearance notice may also contain a separate date and time for Jacob to attend at a police location for his photograph and fingerprints to be taken for identification purposes.
- There are no conditions to obey.
- It is a criminal offence for Jacob not to attend his court date or his fingerprint date.

Officer in Charge Undertaking/Promise to Appear

- Used for many types of offences.
- Jacob is arrested and taken into police custody. He will be taken to a Police Division and held in a police cell.
- The police officer in charge of the cells uses his/her authority to release Jacob with two documents: A Promise to Appear that contains his court date details, and an Officer in Charge Undertaking that contains certain conditions he must obey. Conditions could include not contacting the victim(s), not to attend certain place(s), and to reside at a certain address and not move from that address without notifying the police.
- It is a criminal offence for Jacob not to attend his court date or to disobey any of his conditions.

Bail

If the police determine that it is necessary to hold Jacob for bail, they must bring him before a Justice of the Peace within 24 hours of his arrest. If Jacob is charged and held for bail during the work week he will be brought to the bail court at the Ontario Court of Justice. If he is charged in the Region of Waterloo, the Ontario Court of Justice is located at 85 Frederick Street, Kitchener; OR if he is charged in the City of Guelph and/or Wellington County, the Ontario Court of Justice is located at 36 Wyndham Street, Guelph.

If Jacob is held for bail on the weekend or on a statutory holiday, Jacob will appear by video-link in the Weekend and Statutory Holiday (WASH) Court in London. Bail court is also called Show Cause Court.



As per the YCJA it is a requirement that police must serve a notice to Jacob's parents/guardian upon his arrest, detention or if charges are laid.

Bail Court – Released on Consent of the Crown

- Used for many types of offences.
- When Jacob first appears in bail court the Crown will review the allegations contained in the Crown brief and decide whether to release Jacob on bail or hold him in custody for a bail hearing (Show Cause hearing).
- Factors that the Crown will consider include:
 - Type of charge(s) and allegations;
 - Jacob's youth record and prior police occurrences (if any);
 - Safety of the victim and public at large;
 - Likelihood that Jacob will return to court if released;
 - Likelihood of Jacob committing further serious criminal offences if released;
 - Supports available in the community.
- Although the Crown may consent to Jacob's release and will propose conditions Jacob has to follow, the final decision about Jacob's release always remains with the Judicial Officer.
- The Crown can suggest Jacob be released on five different types of releases:
 - **An undertaking without conditions:** The only requirement is that Jacob must attend Court as directed
 - **An undertaking with conditions:** Conditions depend on the charge(s) Jacob is facing, but can include a curfew, no contact with the victim / witnesses, not to attend certain places, no alcohol or drugs, and/or no weapons
 - **A recognizance:** Similar to an undertaking with conditions, but Jacob pledges a monetary amount to the court that he will follow his conditions
 - **A recognizance with one or more sureties:** Similar to an undertaking with conditions, Jacob pledges a monetary amount to the court that he will follow his conditions, and a person responsible for Jacob, called a surety, pledges a monetary amount that he/she will supervise Jacob and ensure he follows his conditions.
 - **A responsible person undertaking:** This is a unique form of release contained within the YCJA. It envisions a higher level of supervision than a surety bail. Both Jacob and the responsible person must sign an undertaking to the court to obey certain conditions. If either Jacob or the responsible person intentionally violates any terms of the undertaking they can be charged with a criminal offence.

It is a criminal offence for Jacob to violate any terms of his bail release.



Bail Court

If you want to support Jacob at bail court arrive at the Court House, look for the bail court duty counsel (or private counsel if Jacob has retained one). Explain who you are and who you are there to help. Tell them about Jacob's mental health issues and if medication is necessary. If you are willing to be a surety or a responsible person make sure you bring photo identification (for a criminal record check), and consider what conditions would assist you in supervising Jacob. Remember bail court is extremely busy, so you may be at court for many hours.

Bail Court – Released after Bail Hearing

- If the Crown does not consent to Jacob's release he will have a bail hearing. While a bail hearing might be done the first day Jacob appears in court, it is more likely that his case will be adjourned a day or more for the hearing, and Jacob will be remanded (held) in a youth facility, as directed by the court, until then.
- In all YCJA bail hearings the Crown has the onus of convincing the Judicial Officer that Jacob should be held in custody until his charges are dealt with. There are three possible grounds for Jacob's detention: first, that if released he will not return to Court; second, the protection of the public (including a victim) and the likelihood Jacob will commit a further offence or interfere with the justice process; third, that releasing Jacob will undermine public confidence in the justice system. Factors that the Judicial Officer considers include the same factors the Crown considers on a consent release, i.e. the type of charge(s), Jacob's criminal record and previous police contact, supports in the community, etc.
- If the Judicial Officer releases Jacob, he/she will determine the type of release and what conditions to impose.
- If the original bail hearing was before a Justice of the Peace, both Jacob and the Crown have a right to a bail de novo, which is a new bail hearing before an Ontario Court Judge. Two clear days' notice in writing must be provided first to the opposite party.

Bail Court – Detained after Bail Hearing

- If the Judicial Officer decides that Jacob cannot be released back into the community Jacob will be detained pending the completion of his charges. The decision must be based on one or more of the three grounds for detention listed above.
- If the original bail hearing was before a Justice of the Peace, both Jacob and the Crown have a right to a bail de novo, which is a new bail hearing before an Ontario Court Judge. Two clear days' notice in writing must be provided first to the opposite party.
- If Jacob was detained following a bail hearing or a bail de novo before Ontario Court Justice, he may bring a bail review in the Superior Court of Justice.
- Once detained, Jacob will be assigned to a Probation Officer that he can voluntarily engage with to access supports and resources within the community

Region of Waterloo Bail Program – Bail Court

- If Jacob does not have a family member or friend that can act as a surety, he will be referred to a Bail Verification and Supervision Program.
- Bail programs are an alternative to pre-trial custody and a referral can come from various

sources including the court, Crown, defence counsel/duty counsel, correctional staff, community agencies, family, friends and Jacob himself.

- Verification requires Jacob to complete an interview wherein information is gathered that will be shared with the court to determine if he should be released from custody. The interview is then verified by contacting other relevant individuals and agencies, following which a bail worker will advise the court on whether Jacob is suitable for the program.
- Supervision begins once Jacob is released with a judicial order on the condition that he report to the local agency bail program, attend all scheduled court dates, and abide by any other bail conditions



Approaching the Bail Crown

While you are welcome to speak to the Bail Crown, it is best to speak to duty counsel/retained counsel first. Duty counsel's/retained counsel's main obligation is to assist Jacob. The Crown will be concerned about Jacob's well-being, but their primary concern is public safety and upholding the law.

The Crown can use information you provide for any purpose they feel necessary, and it may not be the way you had intended. Furthermore, anything you tell the Crown is disclosed to the court, the police, and to Jacob. If you want to be a surety for Jacob, expect that the Crown will have questions for you, and they will either ask you outside of Court or have you take the stand and provide sworn testimony. When speaking to the Crown, whether under oath or not, be truthful – they will likely check the information you provide.

REGION OF WATERLOO – FORM 2 BAIL RELEASES

In the Region of Waterloo, a special protocol has been developed between the Crown Attorney's Office, the Waterloo Regional Police Services, and Grand River Hospital through which certain accused can be released on bail to reside at the mental health unit at Grand River Hospital. These bail releases are called "Form 2 Bail Releases."

Not all accused who have mental health issues can be released on a Form 2 Bail Release. If Jacob's mental disorder is severe enough that he meets the criterion of a Form 2 under Ontario's Mental Health Act, the Crown must be confident that it is safe to release Jacob on bail to reside at Grand River Hospital. Grand River Hospital has a locked mental health unit, but it



Canadian Mental Health Association
Waterloo Wellington Dufferin, 80 Waterloo Ave, Guelph ON



If Jacob meets the criteria for the Form 2, and the Crown is satisfied that he can be released on bail to live at Grand River Hospital, Jacob must still consent to the Form 2 Bail Release. The protocol will not force Jacob into the hospital against his will.

is not as secure as a prison or forensic psychiatric hospital. Therefore, if the offence is extremely violent, or Jacob has a long criminal record of violence, he may not be eligible for the bail release.

If the Crown and Jacob agree to a Form 2 release then evidence is called before a Mental Health Court Justice to satisfy both the Form 2 criteria under Ontario's Mental Health Act, and the bail release. If the Justice orders the Form 2 and Jacob's release on bail, the Waterloo Regional Police Service will take Jacob to Grand River Hospital.

The terms of Jacob's bail will depend on the nature of the charge(s) he is facing, but two terms will be standard:

- Reside at Grand River Hospital and follow the rules of the hospital; and
- Remain on the grounds of Grand River Hospital.

It is still completely the hospital's decision whether or not to accept Jacob as a patient. If Jacob is not admitted to Grand River Hospital, the police will take Jacob back into custody and he will appear as soon as possible in bail court to explore his next options.

When Jacob is discharged, Grand River Hospital will call the Waterloo Regional Police Service and the police will pick Jacob up, arrest him for an anticipated breach of his bail terms (to reside at Grand River Hospital) under s.524 of the Criminal Code, and bring him back to the first available bail court. Jacob will not be charged with an offence for breaching his bail term as it is not his fault that he is being discharged. If Jacob's mental health is relatively stable when he returns to bail court he will likely be re-released back into the community.

A Form 2 Bail Release allows Jacob to receive treatment for his mental disorder and at the same time ensures public safety by addressing what may be the underlying cause(s) of Jacob's criminal behaviour.

BAIL ESTREATMENT

If Jacob is released on his own recognizance and fails to attend Court, or is convicted of breaching one of his bail terms, the Crown can seek an order that Jacob must forfeit the money he pledged to the Court on his recognizance.

If Jacob is released on a recognizance with one or more sureties and fails to attend Court, or is convicted of breaching one of his bail terms, the Crown can seek the forfeiture of the monies that Jacob and the surety / sureties pledged to the Court.

The Crown's application for the money is called an "estreatment", and takes place in the Superior Court of Justice. Jacob and the surety / sureties will receive a notice of estreatment by registered mail, with the date, time, and location of the estreatment hearing. Jacob and the surety / sureties are allowed to attend the hearing and try to convince the presiding Superior Court Justice that a judgement for the amount pledged should not be issued against them. If Jacob and the surety / sureties do not attend, it is likely a judgment will issue against them. The Sheriff is in charge of collecting estreatment judgments.



When does Bail end?

All forms of release are in effect until Jacob's case is completely over, or his bail is otherwise changed by a Judicial Officer. If Jacob has any questions about his bail, or if he wants to vary his terms, he should contact his defence counsel or a duty counsel.

Revoking a Surety

Jacob's surety can change his/his mind about being a surety at any time, for any reason. To be removed as Jacob's surety, he/she must attend at the Courthouse and ask a Justice of the Peace to be removed. The surety does not have to provide a reason for doing so. Once the surety is removed, a warrant will be issued for Jacob's arrest, but the surety's duties do not end until Jacob is arrested by the police

3

THE ROLE OF THE CROWN

The Crown represents the public in the prosecution of criminal offences. Each region has a senior Crown Attorney and many assistant Crown Attorneys. All Crowns are employed by Ontario's Ministry of the Attorney General.

The Crown is a separate entity from the police. While they work closely together, the Crown and the police have different responsibilities and different standards of proceeding with criminal charge(s). The police must have reasonable grounds to believe

an offence has been committed in order to lay charge(s), while the Crown must have the higher standard of a reasonable prospect of conviction in order to proceed with the charge(s). If the Crown decides there is a reasonable prospect of conviction, the Crown must then be satisfied that it is in the public interest to proceed with the charge(s).

As Jacob is a member of the public, the Crown must respect his interests as well as the interests of all other members. In that sense, the Crown will treat Jacob fairly, and with respect. However, it is important to remember that the Crown represents all members of the public, as well as the public's interest in maintaining a safe, law-abiding, and just society. This is different than the role of a defence counsel, who is only responsible for representing Jacob's interests.

Certain offences are prosecuted by the Federal Government's Department of Public Prosecutions. These prosecutors are often called "Federal Crowns", and have separate offices and contact information. The most common offences prosecuted by the Federal Crowns are drug offences under the *Controlled Drugs and Substances Act (CDSA)*, and tax offences, under the *Income Tax Act*.

MEETINGS WITH THE CROWN

If Jacob has hired a defence counsel then Jacob should not discuss his case with a Crown. It would be improper for the Crown to talk to Jacob directly when he has retained a defence counsel; instead the Crown and defence counsel will discuss Jacob's case

Jacob's family members and friends are also welcome to meet with the Crown. However, it must be remembered that everything told to the Crown can be disclosed to Jacob, as Jacob has a right to all relevant information the Crown has in its possession. Furthermore, the Crown cannot promise what use it will make of the information provided. As such, it may be beneficial for Jacob's family and friends to speak to Jacob's defence counsel / duty counsel prior to speaking to the Crown, in



Waterloo Region Courthouse, 85 Frederick Street, Kitchener

order to prevent disclosing something to the Crown that might upset or prejudice Jacob. While family members are often well meaning, any information given to the Crown by anyone can be used in the prosecution of the offence. Finally, while the Crown will welcome any information provided, the Crown will generally not discuss the details of Jacob's case with his family and friends. As a result, it should be expected that the meeting will involve the Crown accepting any information that the family and friends want to disclose, and not a discussion of the facts of the case.

If it is one of Jacob's family members or friends that is the victim of Jacob's offence then the Crown will be able to discuss more details of the case, as the Crown has an obligation to a victim of a crime to keep them informed. The Crown understands that it is often difficult for one of Jacob's family members / friends who have been victimized to participate in the criminal justice process, and he/she will try to explain the process and respect the victim's input. It must be remembered, however, that while the Crown will consider the victim's input, it is only one of a number of considerations the Crown must look at when deciding how to proceed with Jacob's case.

REGION OF WATERLOO - YOUTH COURT CROWN

The Region of Waterloo has a Crown assigned to the Youth Court and to oversee all youth files, including those with a mental health concern. If Jacob wishes to have his case heard in the Youth Mental Health Program, it will be the Youth Court Crown, together with the Lutherwood Court Coordinator, who will assess Jacob's suitability for that stream. Mental health diversion can often require ongoing medical assessments, treatment, or programming as a condition of the diversion. It is important to remember that this, like any other form of health care, must be based on the free and informed consent of the patient. The Court only has the power to order assessments and treatment under specific circumstances

If Jacob's case has been moved into the Youth Mental Health Program, then the Youth Court Crown will monitor Jacob's case as it moves through the criminal justice system. The Youth Court Crown has a full understanding of the Youth Criminal Justice Act, mental disorders, consent and capacity board issues, and other issues that are unique to youth and mental health cases.

The Crown has options upon reviewing Jacob's case and all the documentation provided by the Police in the court package (which will include past police contact and any previous extrajudicial measures applied and their result). The Crown will complete a screening form that allows him/her to choose from a number of options how to proceed with Jacob's case:

- **Referral:** Jacob may be ordered to attend a program that will address his particular challenging behaviour.
- **Peace bond:** Similar to a restraining order, a peace bond contains terms that Jacob must follow. A peace bond is not a criminal sentence, or part of a criminal record, but breaching the bond can result in a criminal charge.
- **Extrajudicial sanctions (EJS):** A more formal version of extrajudicial measures, but applied by the Crown/Court rather than the Police. It is a community-based intervention where Jacob will be met for an initial intake and assessment to determine the most suitable program, taking into consideration his interests, skills and abilities.
- **Enhanced extrajudicial sanctions (EEJS):** A more formal version of Extrajudicial sanctions for cases that are more serious or that appear to require more engagement and more comprehensive programs.
- **Community Justice Initiatives (CJI):** Using restorative justice to facilitate victim-offender reconciliation.

If the Crown deems Jacob ineligible for one of these diversion options his case will then proceed to trial.

In the event that Jacob receives a referral to attend a program (i.e. at Lutherwood) the Crown will be kept updated on his progress throughout the program. If Jacob does well in the program the Crown may:

- Withdraw the original charge against Jacob (however, Jacob can be formally charged again if more evidence is found regarding his offence)
- Stay the charges against Jacob



What's the difference between having charges withdrawn or stayed?

The decision by the Crown to stay or withdraw charges means they discontinue the prosecution. In both situations, once your charges are withdrawn or stayed by the Crown, you don't have to go back to court.

However, there is one important difference. Stayed charges can be “brought back to life” within one year of the day they are stayed. While this tends to be rare, you should know that if Jacob charged with new offences during the one year period after he's had charges stayed, the stayed charges could be brought back and the Crown could prosecute him on those same charges again. If charges are withdrawn, the prosecution of those charges is finished and those same charges can never be brought back.

If Jacob does not do well in the program, the Crown may:

- Apply to the Court for a psychological or psychiatric (or both) report pursuant to section 34 of the YCJA.
- Recommend that Jacob's case proceed to trial or guilty plea.



It should be noted that Guelph-Wellington does not have a dedicated Youth Court, however, the process and procedures as noted in this booklet apply across the Waterloo and Wellington Regions unless otherwise noted.



Contact with the Crown

Remember that Crowns are often busy. Jacob's case could be one of hundreds they have to deal with in a week. As a result, if Jacob wishes to speak to a Crown about his case, it is best whenever possible to call/attend ahead to make a “pre-trial” appointment. When Jacob contacts the Crown's office, he needs to provide his full name and next Court appearance date to enable staff to find the file.

Jacob is entitled to all the relevant evidence against him in both the Crown's and police's possession. This is called “disclosure”, and is usually available to Jacob at his first court appearance. Certain restrictions apply to disclosure, e.g. Jacob will not be given information that would disclose the identity of a confidential police informant, information that would be illegal to possess (like child pornography) or copies of material relating to vulnerable witnesses or victims.

Disclosure is most often in paper form, but may also be contained on CD or DVD. If the full disclosure brief is not available at Jacob's first appearance, the Crown will ensure the remainder of the materials are given to him as they become available. If Jacob is not satisfied with his disclosure, he can outline his concerns in writing to the Crown and the Crown has an obligation to respond.

Section 34 assessment reports are prepared by mental health professionals and provide valuable information about Jacob's specific needs and conditions before the court and are publicly funded. They are designed to provide an objective assessment of any mental health concerns that may be relevant to Jacob's functioning and disposition decision-making, any criminogenic factors underlying his behaviour, potential responsiveness to therapeutic treatment, and may address Jacob's risk for recidivism.

A youth justice court judge or justice may, at any stage of proceedings against Jacob require that he be assessed by a qualified person who is required to report the results in writing to the court.

A report may be ordered under the following pre-conditions:

- With the consent of Jacob and the prosecutor; or
- The court may order the report on its own motion or on application of the young person alone, or the prosecutor alone, if the court believes a medical, psychological or psychiatric report is necessary, because;
 - The court has reasonable grounds to believe that Jacob may be suffering from a physical or mental illness or disorder
 - Jacob's history indicates a pattern of repeated findings of guilt
 - Jacob is alleged to have committed a serious violence offence

Any admissions made by Jacob in the course of the completion of the report may not be used to incriminate him should the matters nevertheless proceed to trial. This may help assuage any concerns counsel or Jacob and his family have about ordering a section 34 report at any early stage in the proceedings. Those parties entitled to receive a copy of the report include: Jacob, his parents/guardian, any counsel representing Jacob and the prosecutor.

A section 34 assessment can be a helpful tool in determining the most effective a bail plan, and/or that the most viable sentence possible be crafted to support Jacob's rehabilitation.

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THE ROLE OF DEFENCE COUNSEL/ DUTY COUNSEL

DEFENCE COUNSEL/DUTY COUNSEL ASSISTANCE

If Jacob is arrested by the police he must be informed of his right to contact a private defence counsel, or a legal aid duty counsel. If he chooses to exercise that right, Jacob must be given an opportunity to contact either counsel as soon as possible. Jacob also must be given privacy when speaking to that counsel, unless there is a reason why this cannot be done, e.g. he is in the hospital and there is no way to ensure privacy.

If Jacob contacts a defence counsel upon his arrest, he is under no obligation to hire that specific counsel if his charge(s) proceed through the criminal justice system.

DEFENCE COUNSEL

Defence counsel play a crucial role in the criminal justice system. He/she represents Jacob's interests, informs Jacob of his rights and options, and ensures Jacob is treated fairly throughout the process. The criminal justice system has become increasingly complex over the years, and a defence counsel will assist Jacob in understanding the process.

There are many criminal defence counsels in the Region of Waterloo, Guelph, Wellington County and the surrounding area. Jacob should find one he feels comfortable with and has confidence in. Furthermore, defence counsel have different rates, and if Jacob is paying for the counsel with his own money, he may wish to compare the rates of a few counsel before deciding on one. If Jacob loses confidence in his defence counsel, he can dismiss him or her, however, if Jacob is funded through Legal Aid it may be that a change of solicitor is not permitted.

Jacob's defence counsel's primary obligation is to Jacob. This is true even if someone else pays the defence counsel. For example, even if Jacob's family pays for the defence counsel, the defence counsel works for Jacob and must follow Jacob's instructions, not those of his family. There may be situations in which Jacob and his family do not agree, or situations in which Jacob directs his defence counsel not to share information with his family. It is important for parents/guardians to understand and respect that the defence acts in the best "legal" interests of the youth, which may not always coincide with what the parents believe are in the best interests of their child.



Choosing a Defence Counsel

If Jacob's mental health issues played a role in his offence(s) he may wish to look for a defence counsel that has experience with both criminal matters and mental health law. Not all defence counsels accept mental health work, or have experience with Ontario's *Mental Health Act* or community mental health resources.

LEGAL AID ONTARIO

If Jacob cannot afford to retain a defence counsel then he can apply to Legal Aid Ontario for assistance. Whether Legal Aid Ontario will fund Jacob's case depends on a number of factors, including his income and any other assets, and what the Crown is seeking as a sentence if Jacob is found guilty. Generally, the more serious the possible penalty, the more likely Legal Aid Ontario will fund Jacob's case.

Jacob can apply for Legal Aid by phone, on the internet, or in person. He will need to have his Crown screening form as well as information about his income and assets with him.



Legal Advice Services for Youth

You have a right to receive free legal advice from a lawyer.

If you are in custody, you can ask the police to call duty counsel (a legal aid lawyer) for you. The police normally tell duty counsel what you are being charged with. You can then speak to duty counsel over the phone, privately. You should mention any medical issues at this time to duty counsel. The information you get in this conversation can help you until you can get your own lawyer.

If you were arrested and then released from custody, you can get advice over the phone or in person.

The phone number for Legal Aid Ontario is 1-800-668-8258.

The website is www.legalaid.on.ca

The Legal Aid staff is available at the Ontario Court of Justice Courthouse:

Guelph and Wellington County

36 Wyndham Street, Guelph

Monday through Friday

8:30am to 4:00pm

Region of Waterloo

85 Frederick Street, Kitchener

Monday through Friday

9:00am to 4:00pm



North Wellington Operations Centre: Courtesy of Wellington County OPP

If Jacob is granted Legal Aid assistance he will be given a piece of paper called a certificate, which he can give to a defence counsel of his choice that will accept it. Most criminal defence counsels accept Legal Aid certificates.

If Jacob is denied Legal Aid assistance he can appeal that decision to the Legal Aid Area Committee, but must do so within 15 days. To launch an appeal Jacob must send a letter of appeal to the Legal Aid Office listed on the notice he received, for consideration by the Area Committee. Jacob should contact the District Office in Hamilton at 1-877-449-4003 before launching an appeal to ensure the appropriate information is contained in the appeal letter.

DUTY COUNSEL

If Jacob does not qualify for Legal Aid assistance and does not retain a defence counsel, duty counsel will be available to assist him for much of the court process.

Duty counsel is available in the courthouse to assist Jacob on the days he has a court appearance, regardless of whether he is in or out of custody. They can appear with Jacob at adjournments, bail appearances, bail hearings, and guilty pleas. Duty counsel cannot attend for a schedule pre-trial with the Crown on Jacob's behalf or represent Jacob at a trial.

These duty counsels have experience in both criminal matters and mental health law. They can provide Jacob with legal advice on his options, help him in connecting with community resources, appear in court with him, and speak to the Crown and the court on his behalf.

While duty counsel are criminal lawyers and will assist Jacob to the best of their ability on the day of his court appearance, they have many people to assist in a day, and as a result they may not have a lot of time to thoroughly review Jacob's case and provide detailed legal advice. The more complex Jacob's case is, the more likely he would benefit from retaining his own counsel.



Remember duty counsel have many people to assist in a day. Jacob should consider attending 30 minutes before court starts to try to maximize his time with duty counsel.

Jacob should bring his disclosure and Crown screening form with him, and write down any questions he has in advance.

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THE PRE-TRIAL / PRE-PLEA STAGE

The length of pre-trial/pre-plea stage will vary dramatically depending on whether Jacob is in custody or out of custody.

If Jacob is in custody then it is important that the case move quickly so that Jacob spends as little time in custody as possible before the case is resolved. If Jacob is out of custody, then he has more time to consider his options and decide how he wants to proceed.

OUT OF CUSTODY

Every case is unique, but the usual progression for Jacob's case when he is out of custody would be as follows:

1. Release from custody by the police or at bail court.
2. Appear in first appearance / adjournment court approximately two to four weeks after release.
3. If Jacob has not retained his own defence counsel by his first appearance then he can request the assistance of duty counsel.
4. At the first appearance Jacob will be given disclosure (his copy of the Crown's case) and his Crown screening form, which outlines the Crown's position on sentence.
5. The Crown's election will be either to proceed by summary conviction (less serious) or by indictment (more serious).
6. If the Crown is aware of Jacob's mental health issues the screening form may suggest Mental Health Diversion (in the Region of Waterloo the screening form will indicate that the available diversion option is the "Lutherwood Mental Health Program").
7. If the Crown is not aware of, or is unsure of, Jacob's mental health issues, and Jacob wants to apply for Mental Health Diversion, Jacob may wish to advise the court or his defence counsel / duty counsel / the Lutherwood Court coordinator of his wishes.
8. If Jacob is being offered a regular diversion program he may enter the program at his first appearance, or adjourn the case to consider whether he wants to participate in the program.
9. If Jacob is not being offered diversion then his case will likely be adjourned for two to three weeks for Jacob to do the following:
 - Review his disclosure; and
 - Apply for Legal Aid, and, if granted, retain counsel, or if refused, consider applying for counsel to be appointed by the Youth Court pursuant to s.25 of the YCJA; or
 - Retain a defence counsel with his own funds; or
 - Meet with the Youth Mental Health Court Support Coordination staff if he is considering Mental Health Diversion; and
 - Discuss with his defence counsel or other supports what he wants to do with his charges
10. Jacob's case will likely be adjourned two to three more times to allow time for Jacob to work through the above options. After that Jacob will have to set a date for either a guilty plea or a trial.

11. On average, the pre-plea/pre-trial stage from Jacob's first appearance to a guilty plea will be 30 to 60 days, whereas the period from his first appearance to a trial in the Ontario Court of Justice will be approximately four to seven months. If Jacob is charged with an indictable offence and the Crown is seeking an adult sentence and he chooses to have the trial in the Superior Court of Justice then the time between his first appearance and trial will be longer.

IN CUSTODY

If Jacob is in custody, then most of the previously listed steps still occur, but at a faster rate. In this case, it is particularly important for Jacob to consider applying for Legal Aid or retaining a defence counsel privately or by Court appointment as soon as possible. While in detention Jacob will be assigned a Probation Officer.

LUTHERWOOD YOUTH MENTAL HEALTH COURT PROGRAM

If Jacob's case is approved for the Lutherwood Youth Mental Health Court Program, the pre-plea / pre-trial stage may be longer than it would be in regular court, as it may be beneficial for Jacob to prove to the Crown and/or the Court that he is seeking help for his mental health issues. Lutherwood will take a few weeks to conduct an assessment and advise the Crown whether Jacob is eligible. Once he is approved for the program, the Youth Court will allow Jacob more time to work with Lutherwood. The case is typically adjourned for six months while the young person participates in Lutherwood mental health programming – with a review conducted at the three month mark. If Jacob's progress report is poor then the case goes back to the regular Youth Court stream for the young person to choose to set a Trial or a guilty plea date. If the progress report is positive then the case adjourns to the six month mark. If the young person's progress report is poor, at the six month mark, then the case goes back to the regular Youth Court stream but if the progress report is positive the charges are (usually) withdrawn.

CROWN RESOLUTION / PRE-TRIAL MEETING

A Crown resolution pre-trial meeting is often held between the Crown and defence counsel or Jacob. This meeting is held in person at the Crown's office (not in Court), and is not mandatory.

During a pre-trial, the Crown and defence counsel / Jacob will discuss how each sees the case proceeding. A resolution meeting is held "without prejudice", which allows both sides to discuss the case freely.

If Jacob has chosen to plead guilty, a plea resolution will be discussed at the pre-trial, including what charge(s) Jacob will be pleading to, what facts will be provided to the Justice, and what the Crown's position on sentence will be.

If Jacob has chosen a trial, the pre-trial will focus on how long the Trial will take, what witnesses will be called, and whether any issues can be agreed upon to simplify the Trial.

If Jacob is out of custody and wants to arrange a pre-trial with the Crown, then he can call the Crown's office to arrange it. The pre-trial will be held at the Crown's office (not in Court). If Jacob is in custody then a pre-trial will be held in Court or through a Duty Counsel or defence counsel.



When to schedule a pre-trial

It is best for Jacob to wait to schedule a pre-trial/resolution meeting until after his first appearance so that he can receive his disclosure and review the case against him prior to his pre-trial.

JUDICIAL PRE-TRIAL

A judicial pre-trial is similar to a Crown resolution meeting, except that a Justice participates in the pre-trial, assists both sides in resolving outstanding issues, and provides an opinion as to a possible range of sentence if Jacob enters a guilty plea or is found guilty after a trial.

Judicial pre-trials are usually held in more complex and lengthy cases. They are mandatory if any trial is expected to take a day or more. Please note that timelines may vary by region. Judicial pre-trials are held outside of court, usually in the Justice's chambers.

If Jacob's case is to be resolved by a guilty plea, then the Justice who participated in the judicial pre-trial will only preside over the guilty plea if both the Crown and defence counsel / Jacob consent. If Jacob's case is to be a trial, then the Justice who participated in the judicial pre-trial will not be the Justice that hears the trial, and the trial Justice will know nothing about what was said at the judicial pre-trial.



Guelph Police Service Headquarters: Courtesy of Guelph Police Service

SUMMARY OFFENCES VS. INDICTABLE OFFENCES

During the screening stage the Crown will determine how they will be proceeding on the charges. There are two options: By indictment or by summary conviction.

By Indictment

Some offences must be prosecuted by indictment. These offences are called “straight indictable” offences. These are the more serious offences in the Criminal Code. Examples of straight indictable offences include:

- Murder
- Manslaughter
- Robbery
- Aggravated assault
- Break and enter into a dwelling house

By Summary Conviction

At the other end of the scale are offences that must be prosecuted by summary conviction. These are called “straight summary” offences. Examples of straight summary offences include:

- Causing a disturbance
- Harassing phone calls
- Trespass by night
- Breach of Probation

Hybrid Offences

Most offences in the Criminal Code are hybrid offences, meaning the Crown can choose to proceed by either indictment or summary conviction. Examples of hybrid offences include:

- Assault
- Assault with a weapon
- Sexual assault
- Theft under \$5000
- Mischief under \$5000
- Breach of Undertaking/Recognizance

The Crown will consider the nature of the offence, any injuries, the criminal record of the young person, the prevalence of the particular crime and various aggravating and mitigating factors when deciding whether to proceed by indictment or by summary conviction. The most important factor to consider is what the expected sentence might be should Jacob be found guilty. If the facts of the case and/or Jacob’s criminal record are such that a very significant penalty is possible, then the Crown may elect to proceed by indictment.

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THE GUILTY PLEA

If Jacob is not eligible for diversion, and after careful consideration has decided to plead guilty, then he can do so in the regular youth guilty plea court.

A plea is considered a significant sign of remorse and will be considered as a mitigating factor. Therefore, the sentence on a plea is usually considerably less than the sentence Jacob would receive after a trial. This is not because Jacob is punished for having a trial, as that is his right. Rather, Jacob is given credit for pleading guilty, showing his remorse, and saving the victim(s) and witness(es) from having to testify.

If Jacob has retained a defence counsel, he/she will assist him with the plea. In many cases Jacob's defence counsel will have had a resolution meeting with the Crown before Jacob's plea to work out a plea resolution. A plea resolution will ensure that Jacob is aware of what charge(s) he will plead to, what charge(s) will be withdrawn, what facts he will admit, and what the Crown's sentence position will be.

If Jacob has not retained counsel then he can do the plea on his own or have duty counsel assist him. It is unlikely, however, that the duty counsel will have time to have in-depth discussions with the Crown on Jacob's behalf on the day of the plea. Therefore, Jacob may want to consider arranging a Crown pre-trial before his plea date in order to discuss a potential plea resolution and learn the Crown's sentence position.



Wellington County Operations Centre (Fergus)
Courtesy of Wellington County OPP

Jacob must understand that despite whatever his or the Crown's sentence position is the final decision always rests with the Justice. The Justice may agree with Jacob's position, or agree with the Crown's position, or he/she may sentence Jacob to something different from either position. If the Crown and Jacob agree on a sentence position, which is called a "joint submission", then it is unlikely that the Justice will change that position, unless he/she feels that the joint submission will bring the administration of justice into disrepute.

Before Jacob is arraigned on the charge(s) and enters a guilty plea, the Justice will ask his defence counsel / duty counsel or Jacob directly if:

- Jacob is entering his plea voluntarily,
- If he understands the facts that will be the basis of the plea,
- If he understands the consequences of the plea, and

- If he understands that regardless of whether a plea resolution has been discussed, the final sentencing decision rests with the Justice.

After the plea inquiry, Jacob will be arraigned on the charge(s) and he will plead guilty. The Crown will then read in the facts of the case, and the Justice will ask Jacob if he agrees with what the Crown read. Jacob's defence counsel or duty counsel will answer on his behalf, and either agree to the facts as alleged or make some minor changes. The Crown must agree with these changes, or else the plea will be struck because the Crown and Jacob have not agreed on the facts behind the charge(s).

Once the facts are agreed upon, the Court will accept the plea and make a finding of guilt. The Justice then moves on to the sentencing phase.

The Justice may sentence Jacob on the day of his plea, or may choose to adjourn the sentencing for a number of reasons. Common reasons to have the sentencing on a later date include:

- A pre-sentence report is to be prepared;
- A section 34 psychological and/or psychiatric report is to be prepared;
- Jacob is to attend counselling or a rehabilitation program;
- Jacob is to obtain restitution for the victims of the offence(s);
- The Crown is seeking a Statement of Restitution or a Victim Impact Statement from the victim(s).

If Jacob's sentencing is adjourned, his bail (Recognizance) terms remain in place until the sentencing is complete.

PRE-SENTENCE REPORTS (PSR)

The YCJA requires that, where custody is sought by the prosecution, a report be prepared regarding Jacob's background to assist the Court in determining the most appropriate sentence for him. A PSR may be sought to assist the Court even where custody is not sought.

A pre-sentence report, which is written by a Probation Officer, will include:

- An interview with Jacob and available family members;
- An interview with the victim; and
- A summary of Jacob's:
 - Age, maturity, character, behaviour and attitude and his willingness to make amends;
 - Plans to change his conduct or to participate in activities to improve himself;
 - Response to previous sentences and to services rendered to him;
 - History of extrajudicial sanctions;
 - Willingness to avail himself of listed (available and appropriate) community services and facilities;
 - Relationship with his family and the degree of control and influence of the family over Jacob;
 - School attendance; and
 - Employment history

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THE TRIAL

Jacob, like every other accused, is innocent until proven guilty and he has the right to insist that the Crown prove the case against him.

If Jacob is charged with a straight summary offence or a hybrid offence where the Crown elects to proceed by summary conviction, then he must have his trial in the Ontario Court of Justice.

If the offence is straight indictable or the Crown has elected to proceed by Indictment then, in most circumstances, the young person can elect to have a Preliminary Inquiry/Hearing before they have a Trial. At a Preliminary Inquiry the Crown must call witnesses to prove that it has enough evidence to send Jacob to trial in the Superior Court. Jacob's defence counsel can request that the Crown call certain witnesses whom Jacob wants to hear from. Jacob can also call witnesses for his defence if he wishes to do so.



Superior Courthouse, 74 Woolwich Street, Guelph

If Jacob has retained a defence counsel, he/she will represent Jacob at the Preliminary Inquiry or Trial. If Jacob is self-represented then he must represent himself, as duty counsel cannot assist him with a Preliminary Inquiry or Trial.

At a Trial the Crown must call evidence to prove Jacob's guilt beyond a reasonable doubt. Jacob is not required to prove anything, and he can choose to remain silent and see whether the Crown can prove its case. Jacob can also choose to call evidence to try to raise a reasonable doubt as to the Crown's case.

Every Trial is unique, and can unfold in many ways, but the basic trial process is as follows:

- Jacob is arraigned and pleads not guilty;
- The Crown calls witnesses against Jacob. The Crown questions each of their witnesses and Jacob's defence counsel has an opportunity to cross-examine each witness. Depending upon what is said in cross-examination, the Crown has a limited right to re-examine their witnesses;
- The Crown closes its case against Jacob, and the defence counsel decides whether or not to call defence evidence;
- If Jacob's defence counsel chooses not to call defence evidence then the Crown must proceed with their closing argument, followed by defence counsel's closing argument, and then the Justice will render a verdict of guilty or not guilty;
- If Jacob's defence counsel calls defence evidence, it may or may not include calling Jacob to the stand. If Jacob does testify on his own behalf, he will usually testify before any other defence witnesses, so that he cannot be accused of tailoring his evidence to match his witnesses' evidence;
- Jacob's defence counsel will question their defence witnesses, and the Crown will have the right to cross-examine those defence witnesses, including Jacob. Depending upon what is said in cross-examination, the defence counsel has a limited right to re-examine their defence witnesses;
- If the defence calls evidence, then the Crown may choose to call reply evidence if necessary;
- If the defence calls evidence, then the defence must give their closing submissions to the Court first, and the Crown's closing submissions will follow;
- The Justice may decide the case that same day, or he/she may adjourn the case to consider the evidence and render his/her Judgement on a later date;

If Jacob is acquitted after trial, then the case is over and any bail terms end. If Jacob is found guilty after trial then he will be sentenced. Jacob could be sentenced on the same day as the Judgement is handed down, or the sentencing may be adjourned for a number of reasons, including to permit:

- A pre-sentence report to be prepared;
- A psychological and/or psychiatric assessment to be done;
- Jacob to do counselling or a rehabilitation program;
- Jacob to obtain restitution for the victim(s) of the offence(s);
- The Crown to obtain a Statement of Restitution or a Victim Impact Statement from any victim(s).

If Jacob's sentencing is adjourned, the bail (Recognizance) terms remain in place until the sentencing.



Being Charged as an Adult

Youth aged 14 and over may be charged and tried as an adult under certain circumstances. Deciding if an adult sentence is appropriate only takes place after a finding of guilt in Youth Court. There are enhanced protections and notice requirements throughout the process to ensure that the youth's rights are fully safeguarded, including not exposing the youth to an examination of penalty before the determination of guilt has been made.

An adult sentence could be given if the youth has been found guilty of any offence where an adult is liable to a term of imprisonment of at least two years. In some cases, where the young person is charged with a “serious violent offence”, the Crown will almost always seek an adult sentence. The Crown must give notice to the youth and the court that it is seeking an adult sentence. The YCJA section 2 defines ‘serious violent offence’ to include only the following offences:

- 1st degree murder or 2nd degree murder (Criminal Code section 231 or 235);
- Attempt to commit murder (Criminal Code section 239);
- Manslaughter (Criminal Code sections 232, 234 or 236); and
- Aggravated Sexual Assault (Criminal Code section 273).

A youth under the age of 18 at the time of sentencing would serve the adult sentence in a youth facility. If the youth is 18 or older when sentenced and is sentenced to less than 2 years, he or she may go to provincial jail. If the youth is 18 or older when sentenced and is sentenced to more than 2 years, he or she may go to a federal penitentiary. If the youth turns 20 in a youth facility, he or she must be transferred to an adult facility unless a Justice orders otherwise.

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THE SENTENCING

If Jacob is found guilty after a guilty plea or after a trial, the next step is Jacob's sentencing.

As stated in previous chapters, Jacob's sentencing can occur immediately after he is found guilty, or his case can be adjourned for various reasons.

Before Jacob is sentenced both the Crown and Jacob's defence counsel / duty counsel will make submissions to the Court as to what sentence they feel is appropriate. They may refer to the facts of the case, and may compare them to similar cases heard by other Courts. Traditionally Jacob's defence counsel / duty counsel will go first, followed by the Crown.

Both sides will also file any exhibits they feel are relevant. For the Crown, this can include Jacob's youth court record, any outstanding probation orders, victim impact statement(s), pre-sentence reports, psychiatric assessments, or anything else the Crown wants the Justice to consider. For the defence this can include items such as medical or psychiatric reports, reference letters, counselling reports, a written apology, or proof that restitution has been paid to the victim(s).

After hearing from the Crown and defence counsel / duty counsel, and reviewing all of the exhibits, the Justice will ask Jacob if he has anything to say. Jacob has no obligation to say anything, but if he wants to address the Court, this is the time to do so.

The Justice will then decide the appropriate sentence for Jacob.

Possible sentences include:

- **Judicial Reprimand:** A formal rebuke or warning
- **Absolute Discharge:** Jacob is discharged with no requirement of Probation.
- **Conditional Discharge:** Jacob is discharged upon successful completion of a period of conditions of up to two years.
- **Fine:** Jacob is found guilty and ordered to pay a monetary penalty. A fine can be on its own, or it can be combined with probation or custody (but cannot be combined with both). The maximum fine amount is \$1,000 for a young person.
- **Probation Order:** Jacob is found guilty. Probation is a period of supervision for up to two years. Jacob will have to follow all terms in the order, including that Jacob must report to a Probation Officer (who may solicit the assistance of a Youth Court Worker). A probation order can be ordered with a conditional discharge, a fine, or a period of custody of two years or less.
- **Stand Alone Community Service:** Up to 240 hours.
- **Deferred Sentence:** Jacob is sentenced to a period of imprisonment, but allowed to serve that custodial sentence in the community, under terms stricter than a probation order. A deferred sentence can last up to six months. Terms may include house arrest. Not all offences are eligible for a deferred sentence. During the deferred sentence, Jacob will be monitored by a Probation Officer.
- **Custody and Supervision Order:** Jacob is sentenced to a term of custody and supervision in

the community, normally split between 2/3 custody and 1/3 community supervision.

If Jacob is found guilty of more than one offence, his sentence can be different for each offence. For example, Jacob may be sentenced to a fine on one charge, and probation on another. The sentences can be concurrent, meaning they run at the same time as each other, or consecutive, meaning they run one after the other.

There are certain orders that are also part of sentencing, depending on the charge(s) that Jacob is found guilty of. These orders can include the following:

- Restitution to victim(s);
- A DNA sample being taken
- A ban on owning weapons and firearms;
- A ban on owning animals;
- A ban on driving a motor vehicle



Youth Court Records

If Jacob has committed a crime and has been dealt with by the youth criminal justice system, he will have a youth record. Having a youth record can affect Jacob's ability to apply for college or university, to get certain jobs, and to travel to other countries. Jacob's youth record may not be erased when he turns 18 years of age. His youth record may stay open longer or may be closed sooner, depending on such factors as the type of crime, the type of sentence, and whether he commits another crime while his record is still open.

Jacob's youth court record stays open for three years (if the offence was prosecuted Summarily) or five years (if the offence was prosecuted by Indictment) after he completes the sentence and/or probation or weapon prohibition

If Jacob commits another crime during this waiting period, his record will be kept open until the waiting period is over for the most recent crime

If Jacob is over 18 years of age and commits a crime while his youth record is still open, his youth record becomes a part of his adult record if he is convicted of that subsequent adult offence.

Adult records stay open for life unless an individual is granted a "record suspension" (formerly known as a pardon).

ROLE OF PROBATION OFFICER

The focus of Probation Services is to hold youth accountable, reduce the risk of reoffending, contribute to community safety, prevent youth crime by providing rehabilitative programming and to create opportunities for youth at risk. Probation Services work to support successful reintegration into school, work, home and the community through advocating, and accessing appropriate resources, for youth.

If Jacob is arrested, denied bail and held in Detention (custody), he will be assigned to a Probation Officer who is to provide a supportive role. Jacob's involvement with probation is voluntary at this point. The focus is to provide supports to him and his family and to address Jacob's basic and

immediate needs such as housing, counselling, family situation and education. This support can continue even if Jacob is released from detention.

If Jacob is convicted, a pre-sentence report may be ordered by the Court and will be prepared by the Probation Officer (see pre-sentence reports on page 26).

If Jacob is sentenced to custody or to a community based sentence (Probation, Community Service etc.) he will be assigned to a Probation Officer who has responsibility for all aspects of the case. The Probation Officer will conduct an assessment to identify strengths and areas of need that are then used to establish goals that Jacob will work towards. Probation Officers work collaboratively with family and community agencies including schools, child welfare agencies and mental health service providers.

If Jacob should fail to comply with the court ordered conditions, the Probation Officer may use a variety of options to hold Jacob accountable, including returning Jacob to court.

Community supervision may be required as part of Jacob's sentence after he has completed his time in custody. A Probation Officer will work with Jacob to develop a plan that:

- Meets Jacob's goals
- Reduces the chance of re-offending
- Monitors compliance of court ordered conditions

In the Waterloo-Wellington Region, Probation Officers can make referrals to a variety of mental health services to address Jacob's needs including those provided through Lutherwood and the Canadian Mental Health Association. In this program, the Canadian Mental Health Association supports individuals with mental health and/or concurrent disorders after a thorough assessment identifies that they are struggling with mental health issues related to their criminality.

There are also different sentencing options available to the court, and supervised by Probation, for those with significant mental health issues, including:

- **Intensive Rehabilitation and Custody Supervision Order (IRCS):** Should Jacob be involved in a very serious offence and have a significant mental health issue, the Judge may order him to serve time in a youth facility or community-based residential facility, followed by supervision in the community. The judge determines the length of the sentence. The custody portion is followed by a period of community supervision. Specialized therapeutic programs and services are provided. Available province-wide.
- **Intensive Support and Supervision Program (ISSP):** Offered through Lutherwood, the Intensive Support and Supervision Program (ISSP) provides intensive individual and family therapy for youth referred between 12 years of age and up to their 18th birthday with complex mental health issues who have been found guilty of an offence that would otherwise result in custody, but whose mental health issues are determined to best be addressed by home and community interventions. Jacob must agree to participate in the program for the course of his probation term and to work with a multi-disciplinary team. Goals are developed and a treatment plan is put in place to address an individual's particular needs. ISSP builds on each youth's strengths and addresses their specific needs while providing intensive support to the youth and their family at home. Available in Waterloo Region

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THE APPEAL

If Jacob is advised that the Justice made an error in finding him guilty and/or in the sentence imposed, he has a right to appeal either or both decisions to a higher court. Jacob must appeal based on an allegation of an error of law, a factual error, or a combination of both. He cannot simply appeal because he is unhappy with the result.

If Jacob is found guilty and sentenced on a summary conviction offence, he must appeal to the Superior Court of Justice, located at 74 Woolwich Street, in Guelph or at 85 Frederick Street, in Kitchener.

If Jacob is found guilty and sentenced on an indictable offence, he must appeal to the Ontario Court of Appeal, located in Toronto.

There are strict time limits on filing notice of an intention to appeal, usually 30 days after the sentence, so it is important for Jacob to decide quickly whether he wants to appeal.

The Crown also has a right to appeal an acquittal, or a sentence. The Crown's right to appeal is more limited than Jacob's.

After hearing the appeal and considering the arguments made by both Jacob and the Crown, the Appeal court can come to one of the following decisions:

- To dismiss the appeal;
- To allow the appeal and order a new trial;
- To allow the appeal and enter an acquittal;
- To allow the appeal and enter a guilty verdict;
- To allow the appeal and vary the sentence;



Waterloo Regional Police Service-North Division: Courtesy of Waterloo Regional Police Service

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YOUTH MENTAL HEALTH COURT SUPPORT AND DIVERSION

An alternative to prosecution may be offered to Jacob, depending on a number of factors:

- Mental Health Diversion and / or Youth Mental Health Court support (both services available in Guelph, Wellington County and Waterloo Region)

YOUTH MENTAL HEALTH DIVERSION IN GUELPH, WELLINGTON COUNTY AND WATERLOO REGION

Youth Mental Health Diversion is generally offered to those who are charged with a minor to moderate criminal charge(s) with no criminal record or a limited one.

Information can be provided by community partners, parents/guardians, duty counsel and defense to the Youth Mental Health Court Worker (YMHCW); however, it remains at the sole discretion of the Crown whether Jacob will be granted a diversion.

The Crown will be guided by the Crown Policy on Mental Health Diversion. Certain offences are often eligible for diversion including shoplifting, minor mischief charges, and causing a disturbance. Other offences are rarely eligible for diversion such as firearm offences, offences against children, hate crimes, drinking and driving offences, and domestic assaults. Most offences fall somewhere in between, and it is up to the Crown to decide if the facts of a case make it suitable for diversion.

In making the decision as to whether Jacob should be offered diversion, the Crown will seek the opinion of the Youth Mental Health Court Worker. The Crown will also often seek input from any victims of the offence.

To be eligible for Mental Health Diversion the Crown must have a reasonable prospect of conviction in Jacob's case; it must be in the public interest to proceed with the charge(s); Jacob must be fit to stand trial; and there must be a connection between the charge(s) and Jacob's mental health issues. Jacob does not have to admit guilt prior to entering into Mental Health Diversion.

Jacob has no obligation to accept a diversion program. The benefit of mental health diversion is that if Jacob is successful in completing the diversion program, the charge(s) may be stayed or withdrawn and not recommenced unless there is a significant reason to do so.

If Jacob agrees to the Mental Health Diversion program the YMHCW screening process will consist of the YMHCW meeting with Jacob and his family to provide some initial information regarding the program.



Lutherwood, Benjamin Street location

If Jacob is appropriate an adjournment date is set for four to seven weeks so that an assessment can be completed. If Jacob is not appropriate for the program the Crown will be notified and his file is re-screened.

The assessment period for the YMHCW includes gathering information related to the mental health diagnosis, past and current supports, and supports which will be required to manage the mental health diagnosis in the future. Discussion with Jacob regarding the diversion terms, which will need to be in place and complied with during the course of their work together, and the consequences for non-compliance will take place with the program contact.

It is expected that the Youth Court Mental Health program plan shall be for a period of six months to one year from the time the contract is signed to the time the charges are withdrawn. The plans may be shorter in length if the contracting parties agree.

The Youth Mental Health Court Worker will work with Jacob to develop an appropriate diversion plan. If Jacob is already working with another community agency, such as Waterloo Regional Homes for Mental Health or the Developmental Services Resource Centre, then that agency's Support Coordination staff will work with Jacob and the Youth Mental Health Court Worker to develop a diversion plan. Every mental health diversion plan is uniquely tailored to the accused, but generally the process is as follows:

- If Jacob agrees to mental health diversion his case will be adjourned six to eight weeks to allow him to start the process;
- Jacob must sign a release allowing the YMHCW to advise the court of his progress;
- If Jacob is deemed suitable for mental health diversion, a report recommending him for the program will be submitted to the Crown;
- There will be a mid-report completed and presented to the court to ensure that Jacob is complying and the plan is being followed;
- During Jacob's final appearance in court for these matters a final report is submitted. If Jacob has fulfilled the terms of the contract the YMHCW makes a recommendation that the Crown withdraw the charges;
- If the Crown agrees that Jacob is a suitable candidate, the Crown will request that the charge(s) be stayed or withdraw at Jacob's next court appearance, and will not re-commence the charge(s) unless Jacob withdraws from the diversion program against the YMHCW's advice

YOUTH MENTAL HEALTH COURT SUPPORT WORKER

The YMHCW is available to the court every Monday in Waterloo Region and every Wednesday in Guelph-Wellington. In addition, the YMHCW attends court most mornings to provide assistance to youth and families who are appearing in bail court. The following is a list of responsibilities of the YMHCW:

- Providing consultations regarding youth with mental health issues or concerns;
- Providing assistance to families seeking support for youth-related matters;
- Providing information to families or individual youth regarding supports of services in the community related to mental health, housing, employment or education;
- Providing a court diversion report, as required;
- Consultation to court personnel, parents/guardians and community supports regarding the need or appropriateness of Section 34 assessments;
- Risk assessments and safety planning for youth who may need to utilize the services of the hospital or link to mental health resources within the community to manage crisis; and to

- Determine the appropriateness of a section 19 conference and provide information around how to facilitate it.

This support is available to young persons, aged 12 to 17 at the time of the offence, who have been charged with an offence under the Youth Criminal Justice Act, and who have a diagnosed or suspected mental illness, traumatic brain injury or developmental disability.

The Youth Mental Health Court Support Staff are neutral. The Mental Health and Justice Staff are unique from other supports in the community in that they bridge the justice system and community mental health supports.

Although the Youth Mental Health Court Support Staff work closely with the Crown, they do not work for the Crown. Finally, while they may support Jacob, they do not work for Jacob.

While these staff are excellent resources, it is important for Jacob to keep in mind that they cannot replace the assistance of a defence counsel, and in particular they cannot:

- Provide legal advice;
- Be a surety for Jacob;
- Appear on Jacob's behalf;
- Testify on Jacob's behalf;
- Force Jacob to seek treatment, including taking medication;
- Guarantee that Jacob is accepted as a patient by a psychiatrist or other medical professional.



Please note that the Youth Mental Health Court Support worker varies by region, as follows:

- In Waterloo Region support is provided by Lutherwood. Contact is made through the Crown Attorney or during first appearance court.
- In Guelph-Wellington Region support is provided by Canadian Mental Health Association WWD. Contact HERE 24/7 at 1-844-437-3247 to request a referral to the appropriate program.

They may also be available on site at the courthouse, depending on the day and time, and court location .

FORM 2

Any citizen can appear in front of a Judicial Officer and request that a Form 2 be issued for Jacob's apprehension under Ontario's Mental Health Act. That citizen must provide evidence under oath that meets the criteria required under section 16 of Ontario's Mental Health Act. The evidence usually relates to Jacob's danger to himself or others, but there are other facts that can also be considered.

If the Judicial Officer is satisfied that the evidence is credible, reliable and meets the criteria listed in section 16, the Form 2 will be issued, directing the police to apprehend Jacob and take him to the nearest hospital with mental health facilities.

A Form 2 only gets Jacob to the hospital. It remains the hospital's decision whether or not to admit him.

If Jacob has been arrested for a criminal offence and is in custody, then absent a release on bail the Criminal Code custody takes precedence over Ontario's Mental Health Act – Form 2. The police may choose to keep Jacob in custody and execute the Form 2, in which case they will keep Jacob under guard at the hospital, or they may choose to keep him in custody and alert the custody facility to Jacob's mental health needs.

If a citizen wishes to have a Form 2 issued he/she must attend at the Criminal Court Office at the Ontario Court of Justice, and ask for a Form 2 information package and a time to appear in front of a Judicial Officer. The court office will give the person the HERE 24/7 contact information (1-844-437-3247). HERE 24/7 will assist the individual in completing the package.

PSYCHOLOGICAL AND PSYCHIATRIC SECTION 34 ASSESSMENTS

The court may order Psychological and/or Psychiatric Assessments from Forensic Psychologists and Psychiatrists, as the need arises. However, such assessments must have a specific purpose under the YCJA; general psychological/psychiatric assessments are not appropriate for Section 34.

These assessments provide information about the specific needs and conditions of the youth before the court. They are designed to provide an objective assessment of any mental health concerns that may be relevant to the youth's functioning and disposition decision-making, any criminogenic factors underlying his or her behaviour, potential responsiveness to therapeutic treatment, and may address the youth's risk for recidivism.

SECTION 19 CONFERENCES

A Section 19 Conference is a group of people brought together outside of the regular court proceedings to discuss and give advice related to a certain youth in the Justice system. Participants in a Section 19 Conference are usually community supports who have some knowledge of, and commitment towards, the youth. Section 19 Conferences are an additional option provided by the YCJA for responding to youth offences outside of court and can influence decisions about young people in the youth justice system.

A Section 19 Conference may be called by the following persons:

- A Youth Justice Court Judge
- A police officer;
- A justice of the peace;
- A Crown Attorney or Defense Lawyer;
- A youth worker;

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JUSTICE, MENTAL HEALTH AND COMMUNITY RESOURCES

POLICE SERVICES IN WATERLOO WELLINGTON

If you need immediate assistance, call 9-1-1

Guelph Police Services

Website: www.guelphpolice.com
Address: 15 Wyndham Street South, Guelph ON N1H 4C6
Phone: Non-Emergency 519-824-1212

Waterloo Regional Police Services

Website: www.wrps.on.ca
Address: **Headquarters**
200 Maplegrove Road, Cambridge, ON N3H 5M1
Central Division
134 Frederick Street, Kitchener, ON N2G 4G3
Rural South Division
34 Peel Street, New Hamburg, ON N0B 2G0
South Division-Cambridge
176 Hespeler Road, Cambridge, ON N1R 6V7
North Division-Waterloo
45 Columbia Street East, Waterloo, ON N2J 4N7
Rural North Division
13 Industrial Drive, Elmira, ON N3B 2Y3

Non-Emergency Phone

Kitchener, Waterloo, Cambridge 519-653-7700
All other areas 519-570-3000
Automated attendant 519-650-8500
Domestic Violence 519-579-9668
Victims Services 519-743-7243
Accident Reporting Centre 519-650-8500 x 8786

Ontario Provincial Police (OPP)

OPP 24-hour Communication Centre: 1-888-310-1122
Website: www.opp.ca

HDS - Cambridge

Address: 500 Beaverdale Road, Cambridge, ON N3C 2V3
Phone: 519-654-0150

Centre Wellington Operations Centre - Fergus

Address: 470 Wellington Road 18, Fergus ON N1M 2W3
Phone: 519-846-5930

South Wellington Operations Centre - Rockwood

Address: 5145 Wellington Road 27
Rockwood ON N0B 2K0
Phone: 519-856-1506

North Wellington Operations Centre– Teviotdale

Address: 6725 Wellington County Road 109
Palmerston, ON N0G 2P0
Phone: 519-343-5770

JUSTICE SYSTEM RESOURCES

Crown Attorney's Office

Guelph Office:
Address: 74 Woolwich Street, Guelph ON N1H 6J2
Phone: 519-822-1031

Waterloo Region Office:

Address: 85 Frederick Street, 3rd Floor, Kitchener
ON N2H 0A7
Phone: 519-741-3222

Federal Department of Public Prosecutions (Federal Crown)

Address: 15 Duke Street East, Suite 202
Kitchener, ON N2H 1A2
Phone: 519-571-5778

John Howard Society of Waterloo-Wellington

A non-profit organization offering programs to reduce recidivism among people who have been in trouble with the law, and prevent delinquent behavior among youth who may be at risk of offending.

Website: www.waterloo.johnhoward.on.ca

Guelph / Wellington:

Address: 85 Westmount Road, Guelph ON N1H5J2
Phone: 519-836-1501

Kitchener-Waterloo:

Address: 310 Charles Street East, Kitchener, ON N2G 2P9
Phone: 519-743-6071

Cambridge:

Address: 40 Ainslie Street South, Cambridge, ON N1R 3K1
Phone: 519-622-0815

Legal Aid Ontario

A government agency that provides financial assistance to Jacob and other accused who wish to retain counsel but who cannot afford one. Jacob must apply either in person, on-line, or over the phone, and must meet certain financial and other conditions.

Phone: 1-800-668-8258
Website: www.legalaid.on.ca

Law Facts

An online legal information resource from Legal Aid Ontario. If you have a legal question, and you live in Ontario, this site is for you. LawFacts provides in-depth legal information and resources.

Website: <http://lawfacts.ca>

Law Society of Upper Canada

Website: <https://www.lsuc.on.ca/>

Ministry of Children and Youth Services – Youth Justice Services, Youth Probation

Cambridge:

Address: 73 Water Street North, Unit 21
Cambridge, ON N1R 7L6

Phone: 519-740-1844, 1-866-220-2269

Fax: 519-740-7422

Guelph:

Address: 218 Bristol Street, Guelph, ON N1H3M4

Phone: 519-822-2775, 1-866-605-4666

Fax: 519-822-1675

Kitchener:

Address: 279 King Street West, 3rd Floor
Kitchener, ON N2G 1B1

Phone: 519-571-7844, 1-866-637-0338

Fax: 519-571-7056

Ontario Court of Justice – Criminal Court Office

Wellington:

Address: 36 Wyndham Street South
Guelph, ON N1H 7J5

Phone: 519-836-2501

Waterloo Region:

Address: 85 Frederick Street, 1st Floor
Kitchener, ON N2H 0A7

Phone: 519-741-3300

Ontario Ministry of the Attorney General

Website: www.ontario.ca/attorneygeneral

Phone: 1-800-518-7901

Ontario Ministry of Community Safety and Correctional Services/Probation and Parole

Website: www.mcscs.jus.gov.on.ca

Phone: 1-866-517-0571

Ontario Review Board

A board established by the Ontario government under Part XX.1 of the Criminal Code. The ORB is responsible for the supervision of all accused persons who have been found unfit to stand trial or not criminally responsible by reason of mental disorder.

Website: www.orb.on.ca

Address: 151 Bloor Street West, 10th Floor
Toronto ON M5S 2T5

Phone: 1-416-327-8866

Ontario Superior Court of Justice - Criminal Court Office

Wellington:

Address: 74 Woolwich Street, Guelph ON N1H 3T9

Phone: 519- 822-7961

Waterloo Region:

Address: 85 Frederick Street, 2nd Floor
Kitchener, ON N2H 0A7

Phone: 519-741-3200/3300

Provincial Offences Court – Court Office

Kitchener:

Address: 77 Queen Street North, Kitchener, ON N2H 2H1

Phone: 519-745-9446

Cambridge:

Address: 52 Main Street, Cambridge, ON N1R 6R1

Phone: 519-740-5796

Syl Apps Youth and Secure Treatment Centre

Syl Apps Youth and Secure Treatment Centre is the only facility for adolescents (ages 12-17) in Canada comprised of the three secure programs: detention and treatment.

Website: www.kinark.on.ca

Address: 475 Iroquois Shore Rd, Oakville ON, L6H 1M3

Phone: 1-888-454-6275

Youth Criminal Justice Act

Website: <http://www.justice.gc.ca/eng/cj-jp/yj-jj/tools-outils/back-hist.html>

Youth in Conflict with the Law (Bail Support)

Website: www.waterloobailprogram.ca

Phone: 1-800-818-5017

Kitchener:

Address: 235 Frederick Street, Kitchener, ON N2H 2M7

Phone: 519-745-6591

Cambridge:

Address: 40 Ainslie Street South, Cambridge, ON N1R 3K1

Phone: 519-622-2442

COMMUNITY RESOURCES – HOSPITALS

Cambridge Memorial Hospital

Website: www.cmh.org
Address: 700 Coronation Boulevard
Cambridge, ON N1R 3G2
Phone: 519-621-2330

Guelph General Hospital

Website: www.gghorg.ca
Address: 115 Delhi Street, Guelph ON N1E 4J4
Phone: 519-822-5350

Groves Memorial Community Hospital

Website: www.gmhc.ca
Address: 235 Union Street East, Fergus ON N1M 1W
Phone: 519-843-2010

North Wellington Health Care

Website: www.nwhealthcare.ca

Louise Marshall Hospital Site:

Address: 630 Dublin Street, Mount Forest ON N0G 2L0
Phone: 519-323-2210

Palmerston and District Hospital Site:

Address: 500 Whites Road , RR# 3
Palmerston ON N0G 2P0
Phone: 519-343-2030

Grand River Hospital

Website: www.grhosp.on.ca
All Sites:
Phone: 519-749-4300 (automated attendant)
519-742-3611 (Switchboard)

Kitchener Site:

Address: 835 King Street West, Kitchener, ON N2G 1G3
In patient child / adolescent psychiatric unit:
519-749-4300 x4218

Withdrawal Management Services:

Address: 52 Glasgow Street, Kitchener, ON N2G 1G3
Phone: 519-749-4318

COMMUNITY RESOURCES – MENTAL HEALTH

1 844 437 3247 (HERE247)
TTY: 1-877-688-550



Here 24/7 is your front door to the addictions, mental health and crisis services provided by 12 agencies across Waterloo – Wellington –Dufferin. All you need to do is reach out. They do the intake, assessment, referral, crisis, wait list and appointment booking work for these important programs. It's their job to be your guide, figure out your needs and help you navigate the system. This leaves you free to focus on maintaining hope and pursuing recovery.

Canadian Mental Health Association – Waterloo, Wellington, Dufferin Branch

The Canadian Mental Health Association Waterloo Wellington Dufferin promotes the mental health of all, and supports the recovery of people experiencing mental health issues.

For general information not related to accessing services, please call 1-844-CMHA-WWD (264-2993)

Website: www.cmhawwd.ca

Wellington:

Address: 80 Waterloo Ave., Guelph, ON, N1H 0A1
234 St. Patrick St. E., Fergus, ON N1M 1M6

Waterloo Region:

Address: 67 King St. E., Kitchener, ON, N2G 2K4
1 Blue Springs Dr., Waterloo, ON , N2J 4M1
3-9 Wellington St., Cambridge, ON N1R 3Y4

Alcoholics Anonymous

Alcoholics Anonymous is an international fellowship of men and women who have had a drinking problem. It is non-professional, self-supporting, multi-racial, apolitical and available almost everywhere. There are no age or education requirements. Membership is open to anyone who wants to do something about his or her drinking problem.

Guelph: 519-836-1522

Kitchener-Waterloo: 519-742-6183

Orangeville: 1-866-715-0005

AI-teen

AI-teen is part of the AI-Anon fellowship designed for younger relatives and friends of alcoholics through the teen years.

Website: www.self-help-alliance.ca

Phone: 1-888-425-2666

Narcotics Anonymous

NA is a nonprofit fellowship of men and women for whom drugs have become a major problem. They hold regular meetings to help each other stay clean. Membership is open to anyone who wants to do something about his or her drug problem.

Website: www.orscna.org
Tri-Cities Area: 1-888-811-3887

Stonehenge Therapeutic Community

Stonehenge Therapeutic Community offers a long-term, intensive treatment program (four to six months) for people who lives have been devastated by alcohol and drug abuse.

Website: www.stonehengeetc.ca
Address: 1120 Victoria Street North,
60 Westwood Drive, Guelph ON N1H7X3
Phone: 519-837-1470

Self-Help Alliance

The Self-Help Alliance is a consumer organization that provides services that reflect the values and principles of peer support and recovery. The Self-Help Alliance offers a wide range of peer run groups that provide opportunities for individuals to learn skills that enable people to understand their process of recovery. By developing relationships with peers that share similar experiences, individuals can become connected with their community and can learn how best to support their recovery process.

Website: www.self-help-alliance.ca

Cambridge:

Address: 1-9 Wellington Street, Cambridge ON N1R3Y4
Phone: 519-623-6024

Kitchener:

Address: 67 King Street East, Kitchener ON N2G2K4
Phone: 519-570-4595

Wellington:

Address: 207-147 Wyndham Street North, Guelph ON N1H 4E9
Phone: 519-763-4014

Central West Network of Specialized Care

The Central West Network of Specialized Care has a Dual Diagnosis Justice Case Manager who provides court support for people with a developmental disability or dual diagnosis (both mental disorder and developmental disability). Their main role is working with health, justice and corrections professionals with the view to keep people with a Dual Diagnosis out of the criminal justice system and/or support them through the justice process.

Website: www.cwsds.ca
Phone: 519-741-1121

Portage

Portage is a non-profit organization that helps people suffering from substance abuse-related problems to overcome their dependencies and live healthy, happy and productive lives.

Website: www.portage.ca

Address: 6681 Irvine Street, Elora ON N0B1S0
Phone: 519-846-0945

Wholistic Child and Youth

Wholistic Child and Youth offers a variety of mental health services, counselling and outreach to children and youth who self-identify as First Nations, Metis, or Inuit.

Website: www.wholisticchildandyouth.ca
Address: 65 Hanson Avenue, Kitchener ON N2C2H6
Phone: 519-998-3147

Ray of Hope

Ray of Hope provides Youth Justice Services, Youth Employment Services, Youth Addiction Services, Community Support Services and Refugee Support Services

Website: www.rayofhope.net
Address: 6658 King Street East, Kitchener ON N2G2M4
Phone: 519-578-8018

Pioneer Youth Services

Pioneer Youth Services provides residential treatment for children and youth with severe emotional, mental health, development and behavioural needs.

Website: www.pioneeryouthservices.ca
Address: 26 Dorset Street, Waterloo ON N2L2L5
Phone: 519-884-3985

Lutherwood

Lutherwood offers a wide range of mental health, employment, housing and family support services. They provide a Youth Court Mental Health Worker to the Youth Justice Court at 85 Frederick Street, Kitchener.

Website: www.lutherwood.ca
Address: Mental Health Services
285 Benjamin Road, Waterloo, ON N2J 3Z4
Phone: 1-866-321-4141
519-884-1470

Homewood Health Centre

Homewood Health Centre is a leader in mental health and addiction treatment, providing specialized psychiatric services to all Canadians.

Website: www.homewoodhealth.com
Main Site:
Address: 150 Delhi Street, Guelph ON N1E 6K9
Phone: 519-824-1010
1-866-839-2594 (Admitting Referrals)

Community Alcohol and Drug Services
Address: 49 Emma Street, Guelph, ON N1E 6X1
Phone: 519-836-5733

Waterloo Regional Homes For Mental Health

Waterloo Regional Homes for Mental Health Inc., is a recovery-oriented, community-integrated agency that focuses on improved quality of life and enhanced independence for people experiencing mental health issues by providing access to affordable housing and flexible, individualized supports

Website: www.waterlooregionalhomes.com

Address: 618 King Street West, Kitchener, ON N2G 1C8

Phone: 519-742-3191 (General)

519-576-7431 (Crisis Respite)

Assertive Community Treatment Team (ACCT)

Multidisciplinary team of mental health professionals, who provide long-term, client-centred, highly individualized treatment, support and rehabilitation to people with severe and persisted mental illness.

Website: www.mentalhealthhelpline.ca

Address: 153 Delhi Street, Guelph ON N1E4J3

Phone: 519-767-3575

Avalon Treatment Programs

Provides specialized treatment for children and youth whose needs are complex; including, but not limited to, mental health concerns, emotional issues, trauma and developmental delays.

Website: www.avalontreatmentprograms.com

Address: 53 Delhi Street, Guelph ON N1E4J3

Phone: 519-780-0453

COMMUNITY RESOURCES – COUNSELLING, OUTREACH, AND SUPPORT

Carizon Family Counselling and Community Services

Carizon provides support and counselling for individuals, couples and families on a wide range of topics including credit counselling, family violence, stress, divorce, depression and anxiety.

Website: www.carizon.ca

Children's Counselling

Website: www.carizon.ca/counselling/childrens-counselling

Address: 400 Queen Street South, Kitchener, ON N2G 2W7

Phone: 519-743-6333

Community Care Access Centre – Waterloo Wellington

Providing access to home care, long-term care facilities, and other community health options.

Website: www.ccac-ont.ca

Searchable Database: wwhealthline.ca

Phone for information and referral – 310-CCAC (2222) (no area code required)

Toll-Free: 1-888-883-3313

Wellington:

Address: 450 Speedsvalle Ave. West, Suite 201, Guelph, ON

Phone: 519-823-2550

Waterloo Region:

Address: 141 Weber Street South, Waterloo, ON

73 Water Street North, Suite 501, Cambridge, ON,

Phone: 519-748-2222

Community Justice Initiatives

Community Justice Initiatives provides mediation and conflict resolution services, group support for persons impacted by sexual trauma and reintegration support for women.

Website: www.cjiwr.com

Address: 49 Queen Street N., 3rd Floor

Kitchener, ON N2H 2G9

Phone: 519-744-6549

Community Torchlight – Guelph Wellington Dufferin

Distress Line: Calls will connect with a caring, empathetic listener. They help support people who are lonely, confused, in distress about their circumstances and need someone to talk to.

Website: www.communitytorchlight.com

Phone: 519-821-3760

Toll-Free: 1-888-821-3760

Family and Children's Services (F&CS)

Provides help and support services for families to ensure that children are protected from physical and emotional abuse or neglect.

Website: www.fcsgw.org

Address: 275 Eramosa Road, Guelph ON N1H6N3

Phone: 1-800-265-8300

Waterloo Region

Website: <https://www.facswaterloo.org/>

Phone: 519-576-0540

Cambridge

Address: 168 Hespeler Road Cambridge, ON N1R 6V7

Fax: 519-622-5174

Kitchener

Address: 200 Ardelt Avenue Kitchener, ON N2C 2L9

Fax: 519-576-4709

Family Counselling and Support Services of Guelph Wellington

A non-profit organization offering a wide range of counselling services; including individual, couple and family counselling on topics such as parenting, family violence, mental health and sexuality issues. Case management services are also available for individuals.

Website: www.familyserviceguelph.on.ca

Address: 109 Surrey Street East, Guelph ON N1H 3P7

Phone: 519-824-2431

Toll-Free: 1-800-307-7078

Front Door

At Front Door, you will find a welcoming environment where we work with young people of all backgrounds to build, strengthen, and sustain mental wellness. Access to Child and Youth Services in Waterloo Region. Services available include: walk-in, short-term counselling, group programs, home-based family counselling, and residential treatment.

Website: <http://frontdoormentalhealth.ca/>

Address: 1770 King Street East, Unit 1
Kitchener, ON N2G 2P1

Phone: 519-749-2932

Fax: 519-749-2920

Guelph Community Health Centre

The Guelph Community Health Centre is committed to working with our community to provide access to health programs and services and to create opportunities for people to improve their well-being.

Website: www.guelphchc.ca

Address: 176 Wyndham Street North, Guelph ON N1H 8N9

Phone: 519-821-6638

Guelph Wellington Women in Crisis

The Guelph Community Health Centre is committed to working with our community to provide access to health programs and services and to create opportunities for people to improve their well-being.

Website: www.gwwomenincrisis.org

Address: 38 Elizabeth Street, Guelph ON N1E 2X2

Phone: 519-836-1110

Crisis Line: 519-836-5710 or

Toll-free: 1-800-265-SAFE (7233)

The Healing of the Seven Generations

A non-profit organization that provides support, including court support, for aboriginal Canadians.

Website: healthofthesevengenerations.weebly.com

Address: 300 Frederick Street, Upper Level
Kitchener, ON N2H2N5

Phone: 519-570-9118

Toll-Free: 1-866-676-6009

The House of Friendship

A non-profit Christian organization that provides support to low-income children, youth and adults. Services include addiction treatment programs, community programs, family programs and housing services (including the Charles Street men's hostel).

Website: www.houseoffriendship.org

Address: P.O. Box 1837, Station C, Kitchener, ON N2G 4R3

Phone: 519-742-8327

KW Counselling Services

KW Counselling Services offers a wide range of counselling services including individual, couple and family counselling on topics such as parenting, family violence, mental health and sexuality issues.

Website: www.kwcounselling.com

Address: 480 Charles Street East, Kitchener ON N2G4K5

Phone: 519-884-0000

One Roof

One Roof provides for the safety, support and well-being of homeless and at-risk youth between the ages of 12 to 25 in the Region of Waterloo. Programs include skills training, group or individual counselling, family mediation, housing support, outreach, hot meals, advocacy, court support, access to medical care and overnight shelter.

Website: www.oneroof.org

Address: 242 Queen Street South, Kitchener ON
N2G1W3

Phone: 519-742-2788

Salvation Army – Mental Health Court Services

Present at the Region of Waterloo's Mental Health Court to provide general emotion and spiritual support to accused persons, family members and friends. Services include on-site assistance with clothing, as available, and one-way bus vouchers within an hour of Kitchener for the accused living outside of Region. Referral to other Salvation Army programs including addiction and mental health services.

Phone: 519-742-8521

St. Mary's Counselling

An organization providing confidential outpatient services for people concerned with alcohol, drugs or gambling. Services include assessments, referrals to residential and community resources, and support for family members and friends of individuals with alcohol, drugs or gambling issues.

Website: www.smgh.ca

Phone: 519-745-2585 (Kitchener and Cambridge)

Cambridge

Address: 1145 Concession Road, Cambridge ON
N3H4L5

Kitchener-Waterloo

Address: 30 Duke Street West, Suite 600

Kitchener ON N2H3W5

Welcome In Drop-In Centre

The Welcome In Drop-In Centre is a haven and a caring community for homeless persons, those suffering from mental illness, isolation and economic marginalization. The Drop In Centre provides nutritious meals, shelter, friendship, support and guidance. Doors open at 5am.

Address: 23 Gordon Street, Guelph ON N1H4G9

Phone: 519-837-0080

COMMUNITY RESOURCES – SHELTERS

Women’s Crisis Services of Waterloo Region

Cambridge:

Phone: 519-653-2422

Kitchener-Waterloo:

Phone: 519-742-5894

Toll-Free: 1-800-410-4482

Anselma House: 20 bed short-term, emergency residential shelter for women fleeing violence, with or without children.

Haven House: 30 bed short-term, emergency residential shelter for women fleeing violence, and their children.

The Drop In Centre

The Drop In Centre provides two meals a day, light snacks, support and guidance on a drop-in basis, emergency assistance with transportation and access to social services.

Website: www.ibvm.ca/works/justice/welcome-drop-in

Address: 23 Gordon Street, Guelph ON N1H4G9

Phone: 519-837-3892

Wyndham House (Youth Shelter)

Wyndham House provides youth with housing and educational alternatives, social supports and programming that supports a successful transition to adulthood.

Website: www.wyndhamhouse.org

Address: 26 Douglas Street, Guelph ON N1H 2S9

Phone: 519-822-4400

Argus Residence

An emergency residential shelter in Cambridge for youth between the ages of 16 to 24 who are homeless and in crisis. There is a 10 bed shelter for young men and a separate 10 bed shelter for young women.

Website: www.argusresidence.com

Phone: 519-623-7991 (Male)

519-650-0452 (Female)

Bridges – Cambridge Shelter Corporation

A co-ed emergency residential shelter in Cambridge that includes 40 shelter beds, three family units and 20 transitional bachelor apartments. A variety of programs and services are available including a drop-in centre, additional counselling, and referrals to residential treatment programs.

Website: www.cambridgesheltercorp.ca

Address: 26 Simcoe Street, Cambridge ON N1R8P2

Phone: 519-624-9305

Charles Street Men’s Hostel

An emergency residential shelter in Kitchener for males 16 years of age and older, run by the House of Friendship.

Website: www.houseoffriendship.org

Address: 63 Charles Street East, Kitchener ON N2G2P3

Phone: 519-742-8327

Safe Haven

An emergency residential shelter in Kitchener for youths ages 12 to 15 run by Lutherwood. Available to both young men and young women.

Website: www.wcswr.org

Phone: 519-749-1450 ext 240

YWCA Mary’s Place

An emergency residential shelter for homeless women and their families. The shelter has single occupancy rooms, double occupancy rooms and family units.

Website: www.ywcakw.on.ca

Address: 84 Frederick Street, Kitchener ON N2H2L7

Phone: 519-744-0120

COMMUNITY RESOURCES – HELP LINES

EARS: 519-570-3277

Male Victims of sexual abuse

Kids Help Phone: 1-800-668-6868

Mental Health Helpline: 1-866-531-2600

Telehealth Ontario: 1-866-797-0000

Free, confidential telephone service that provides health advice or general health information from a registered nurse.

Outline: 519-836-4550

Guelph – Support for gay, bisexual, lesbian and transgender individuals.

Youth Support Line: 519-821-5469

PROVINCIAL MENTAL HEALTH RESOURCES

Centre for Addiction and Mental Health (CAMH)

CAMH is Canada’s largest Mental Health & Addictions teaching hospital providing direct patient care for people with mental health and addictions issues, as well as one of the world’s leading research centres in the area of mental health and addiction.

Website: www.camh.ca

Emergency Department

Address: 250 College Street, Toronto ON M5T1R8

Phone: 519-836-1110

Consent and Capacity Board – Ontario Ministry of Health and Long-Term Care

The Consent and Capacity Board conducts hearings under Ontario's Mental Health Act, the Health Care Consent Act, the Personal Health Information Protection Act, the Substitute Decisions Act, and the Mandatory Blood Testing Act.

Website: www.ccboard.on.ca

Address: 151 Bloor Street West, 10th floor
Toronto ON N5S2T5

Phone: 1-866-777-7391

ConnexOntario

An up-to-date database providing information about mental health services and supports, as well as drug and alcohol treatment services and support, throughout Ontario. This service is free and confidential. Information is provided by toll-free telephone, email or web-chat.

Website: www.connexontario.ca

Phone

Mental Health: 1-866-531-2600

Drug and Alcohol: 1-800-565-8603

Problem Gambling: 1-888-230-3505

Human Services and Justice Coordinating Committees (HSJCCs)

The Human Services and Justice Coordinating Committees (HSJCCs) seek to coordinate resources and services for people who are in conflict with the law and who struggle with serious mental illness, developmental disabilities, drug and alcohol addictions and/or fetal alcohol syndromes.

Website: www.hsicc.on.ca

Mental Health Commission of Canada

A national organization committed to help bring about an integrated mental health system that places people living with mental illness at its centre and works to change the attitudes and behaviour to Canadians about mental health issues.

Website: www.mentalhealthcommission.ca

Ontario Disability Support Program (ODSP)

ODSP income support provides financial assistance and other benefits to eligible people with disabilities and their families.

Website: www.mcass.gov.on.ca

Cambridge

Address: 73 Water Street North, Cambridge ON N1R7L6

Phone: 519-623-1230

Toll-Free: 1-888-214-0738

Kitchener-Waterloo

Address: 715 Fischer-Hallman Road, Unit 301

Kitchener ON N2C2N9

Phone: 519-886-4700

Toll-Free: 1-800-441-9820

Wellington

Address: 86 Gordon Street, Guelph ON N1H4H6

Phone: 519-822-7500

Toll-Free: 1-800-567-2953

Psychiatric Patient Advocate Office

An organization that provides independent, confidential advocacy and rights advice to inpatients of the 10 divested provincial psychiatric hospitals, and rights advice to patients in Schedule 1 hospitals. Also provides information on patient's rights and advocacy to the public.

Website: www.sse.gov.on.ca

Address: 5700 Yonge Street, 5th floor, North York ON
M2M4K5

Phone: 1-800-578-2343

Public Guardian and Trustee

A branch of the Ministry of the Attorney General that helps protect the rights and interests of mentally incapable adults who have no one else to act on their behalf, in accordance with the Substitute Decisions Act.

Website: www.attorneygeneral.jus.gov.on.ca

Address: 119 King Street West, Suite 9
Hamilton ON L8P4Y7

Phone: 905-546-8300

Toll-Free: 1-800-891-0502

Schizophrenia Society of Ontario

Provides support, information and advocacy for people with schizophrenia and their families. One program is the Justice and Mental Health (JAMH) program, which provides support for families whose loved one with schizophrenia is involved in the criminal justice system.

Website: www.schizophrenia.on.ca

Address: 131 John Street South, Hamilton ON
L8N2C3

Phone: 905-523-7413

Toll-Free: 1-800-449-6367

APPENDIX A:

GLOSSARY OF TERMS

ACTT – Assertive Community Treatment Team

- An organization that provides support and supervision for those in the community with significant mental health issues. There are four ACT Teams in Waterloo Wellington, one associated with Grand River Hospital, one provided by Waterloo Regional Homes for Mental Health Inc. and two operated by Homewood Health Centre.

Absolute Discharge

- Jacob would be found guilty by the Court, but given an absolute discharge. There is a finding of guilt, but no conviction is registered and Jacob has no conditions to follow.
- The Ontario Review Board can also give an accused an absolute discharge. If Jacob has been found not criminally responsible by reason of mental disorder, unless the presiding Justice or Ontario Review Board finds she is a significant threat to public safety, Jacob must be given an absolute discharge and is no longer under the supervision of the Ontario Review Board.

Accused

- If Jacob is charged with a criminal offence, but not yet found guilty or acquitted, he is called an accused. Once found guilty, Jacob is called an offender.

Adjournment

- Delay of a case for various reasons, including to allow Jacob to seek counsel, review the case against him, or to attend for counselling. Adjournments can be sought by either Jacob or the Crown, and the Justice of the Peace / Justice will decide whether an adjournment is appropriate.

Appeal

- A formal application to a higher court to review a decision made at a lower court level. For example, a decision in the Mental Health Court, which is in the Ontario Court of Justice, can be appealed to the Superior Court of Justice for summary conviction matters, or the Ontario Court of Appeal for indictable matters.

Appearance Notice

- A form of release, most often used for minor offences, e.g. shoplifting, if Jacob is believed not to be a danger to others. It resembles a traffic ticket, and will tell Jacob when and where he must appear in court and when and where he must appear to be photographed and have his fingerprints taken for identification purposes.

Arraignment

- The procedure at the start of a Guilty Plea, Preliminary Hearing, or Trial, in which the Justice directs the Court Clerk to read the charges to Jacob and Jacob must plead either “guilty” or “not guilty”. If Jacob refuses to enter a plea, the Justice will direct that a plea of “not guilty” be entered.

Arrest

- The apprehension by the police of an accused suspected of committing a criminal offence. An arrest can be made by a verbal announcement of an arrest and Jacob submitting to the arrest or if necessary, by a physical seizure of Jacob. An arrest can be made with or without an arrest warrant. Jacob must be told the reasons for his arrest without delay.

Assessment

- An assessment conducted by a qualified forensic psychiatrist for a specific purpose. Under the Criminal Code, the two most common psychiatric assessments are to determine whether Jacob is unfit to stand trial or not criminally responsible by reason of mental disorder. There are also Ontario’s Mental Health Act assessments to assist a Justice in sentencing Jacob.

Audio / Video Appearance (or Remand)

- If Jacob is in custody he may often appear from the prison by way of a video-link, or audio-link if the facility he is at does not have video capabilities. This technology is used only for adjournments, and they are called “video remands” or “audio remands”
- If Jacob is out of custody but in a psychiatric facility he may appear in the Mental Health Court by an audio-link. This is used only for adjournments, and since Jacob is not in custody it is called an “audio appearance”.

Bail

- A form of release permitting Jacob to reside in the community until his charge(s) are dealt with. Bail refers to the release of Jacob by the court, as opposed to cases in which the police release Jacob prior to bringing him to court. If the police choose to bring Jacob to court for bail, they must do so within 24 hours of the arrest. Bail can be in the form of an undertaking or a recognizance, or bail can be denied and Jacob is then held in custody until the charge(s) are dealt with.

Bail – Consent Release

- The Crown in court has reviewed the file and consented to Jacob’s release on bail until his charges are dealt with. The Crown will propose the type of bail (undertaking or recognizance) and the terms Jacob is expected to follow, but the final decision lies with the presiding Judicial Officer (a Justice of the Peace or Justice).

Bail Hearing

- When the Crown does not consent to Jacob’s release, the Court will hold a hearing and a Judicial Officer will decide whether Jacob should be released into the community or detained in custody until her charge(s) are dealt with. A bail hearing is also called a “show cause hearing”.

Bail – Surety

- A person who pledges a monetary amount to the Court that they will supervise Jacob if he is released on bail. A surety can be residential, i.e. they live with Jacob, or non-residential, i.e. they live elsewhere but still monitor Jacob. Generally a surety is a family member or friend who does not have a criminal record, is not a surety for any other accused, has the financial means to meet the amount pledged, is not a victim or witness of the offence, and is confident they can supervise Jacob. A surety can revoke his/her pledge at any time, for any reason, by attending at the Courthouse and asking to be removed as surety. If a surety is revoked a warrant for Jacob’s arrest is issued.

Bail – Terms

- The terms of Jacob’s release back into the community. Standard terms include to come back to court when directed, and to notify the court of any change in address. Other terms depend on the charge(s) and Jacob’s criminal record, and can include a curfew, no alcohol or drugs, no weapons, not to have contact with certain people, and not to attend certain places.

Bail – Violation / Breach

- If Jacob violates a term of the bail release, e.g. he does not obey a curfew, he can be arrested for a breach of his bail. If that happens Jacob will likely go back to bail court. Any financial pledges made to the court, either by Jacob or his surety, can be forfeited to the Crown during a later hearing, called an Estreatment Hearing

Bench Warrant

- A warrant for Jacob’s arrest issued by the presiding Judicial Officer if Jacob does not attend for a scheduled Court date. The warrant will be given to the police to locate Jacob and execute the warrant.
- A “discretionary bench warrant” is a bench warrant that is issued

with a specific date it is not to be executed before. Discretionary bench warrants are often used when Jacob has been ordered to appear in court but cannot appear for a valid reason, e.g. he is in hospital. The discretionary warrant allows the court to maintain jurisdiction over Jacob but allows Jacob a certain amount of time to attend court prior to the warrant being executed.

CDSA – Controlled Drugs and Substances Act

- The federal statute that regulates drugs and other substances. The Act contains lists of prohibited drugs / substances and offences for producing, possessing, and trafficking in them. CDSA offences are prosecuted by the Federal Department of Public Prosecutions (The Federal Crown).

Charge/ Count

- A formal accusation of a specific crime made against Jacob. Jacob can be charged with numerous charges / counts from one incident, or can be charged with one global charge / count for numerous incidents. The police lay charges / counts, and the Crown decides which charges / counts to proceed on.

Charter

- A short-form used for the Canadian Charter of Rights and Freedoms. Jacob is guaranteed certain rights under the Charter to ensure a fair trial.

Community Service

- A type of sentence under which Jacob is ordered by the Court to provide volunteer services in the community. For a youth accused, Jacob can be ordered to do community service independent of a probation order.

Community Treatment Order

- A Community Treatment Order is an order under Ontario's Mental Health Act which governs a person with a serious mental disorder in the community. The purpose of a community treatment order is to provide Jacob with a comprehensive plan of community-based treatment or care and supervision that is less restrictive than being detained in a psychiatric facility.

Concurrent Disorders

- A description used if Jacob has both mental health issues and addiction issues.

Concurrent Sentence

- When Jacob is sentenced on two or more charges and the sentences run at the same time as each other.

Consecutive Sentence

- When Jacob is sentenced on two or more charges and the sentences run one after the other.

Conditional Discharge

- Jacob is found guilty by the Court, but given a discharge that is conditional upon his following court-prescribed conditions on a probation order for up to two years. It is similar to a suspended sentence with a probation order, except there is no conviction registered.
- The Ontario Review Board can also give Jacob a conditional discharge. If Jacob has been found unfit to stand trial or not criminally responsible by reason of mental disorder, and is found to be a significant threat to the safety of the public but does not need to be detained in a forensic psychiatric hospital, then he will be given a conditional discharge and can reside in the community subject to terms set by the Board.

Criminal Code of Canada

- A federal statute that governs the criminal law of Canada. The majority of criminal offences are listed, as well as evidentiary and procedural rules.

Crown/ Crown Attorney/ Assistant Crown Attorney

- An employee of the Ontario Ministry of the Attorney General who represents the public in the prosecution of offences. There is one

Crown Attorney for each Region, and a number of Assistant Crown Attorneys depending upon the population of the Region. All are often referred to as "Crowns".

Crown Brief

- The evidence collected by the police and provided to the Crown in order to prosecute Jacob. Depending on the case it can be a few dozen pages or thousands of pages, it could be on paper or on computer, or a combination of both; and could contain items such as witness statements, photographs, videos, and officers' notes.

Custody

- A state of being kept in prison. Jacob can be kept in custody prior to his sentence, referred to as "pre-sentence custody", or if found guilty after a plea or trial, be sentenced to custody as part of his punishment.

Defence Counsel

- A lawyer with experience in criminal law hired by Jacob to provide legal advice and represent him in criminal court.

Detained

- When Jacob is detained he is held in custody by a court order prior to the completion of his case.
- Jacob can also be detained by the Ontario Review Board. If Jacob has been found unfit to stand trial or not criminally responsible by reason of mental disorder, and the Ontario Review Board has found him to be a significant threat to public safety, the Board can order that he be detained in a forensic psychiatric hospital.

Developmental Disability

- A Developmental Disability is the term used to describe a number of conditions whereby the individual is significantly behind others people in terms of the intellectual, social and life skills in development. Onset is prior to age 18 and the average IQ is below 70.

Disclosure

- A copy of the Crown Brief given to Jacob to assist him. Jacob has the right to the evidence in the possession of the Crown and police that may be used against him. There are a few exceptions to this right, e.g. Jacob is not entitled to evidence that would disclose the identity of a confidential police informant.
- Disclosure is usually given to Jacob at his first court appearance, along with a "Crown screening form", which tells Jacob what the Crown's position is on issues like diversion and sentence.

Disposition

- A term used by the Ontario Review Board. If Jacob is under the supervision of the Ontario Review Board he is subject to a disposition, rather than a sentence. A disposition will have terms on it that Jacob must follow.

Diversion

- A program that Jacob can participate in instead of the police laying criminal charges (pre-charge diversion), or that can lead to the Crown withdrawing or staying charges that have been laid (post-charge diversion).
- Eligibility for a post-charge diversion program is guided by the Crown Policy Manual. Generally speaking, diversion is offered to persons with a limited or no criminal record, for minor property offences or offences with little to no violence.

DSM-V-TR – Diagnostic and Statistical Manual

- 5th edition, text revised
- Reference book used by medical professionals to diagnose mental disorders.

Dual Diagnosis

- Someone that has both a mental illness and is developmentally delayed.

Duty Counsel

- A criminal lawyer hired by Legal Aid Ontario to provide legal advice to unrepresented Accused in first appearance / adjournment court, bail court, or guilty plea court.

Election

- Crown Election: On hybrid offences, the Crown can elect to proceed by summary conviction or by indictment.
- Accused Election: On indictable offences Jacob can elect to have a trial in the Ontario Court of Justice; or a preliminary inquiry in the Ontario Court of Justice and then a judge-alone trial in the Superior Court of Justice; or a preliminary inquiry and then a judge-and-jury trial in the Superior Court of Justice.

Estreatment

- The procedure undertaken by the Crown to collect money pledged by Jacob and/or his surety or sureties when Jacob was on a recognizance of bail, pledged money that he would abide by the terms, and was then convicted of breaching a term of the bail or failed to appear in court.

Exigent Circumstances

- An exception to the general law that the police cannot enter a person's home without their consent or a search warrant. If the police have reasonable grounds to believe that there is an imminent risk to the safety of a person inside the home they can enter without a warrant or consent. An example would be if the person inside is in serious crisis and is a risk to themselves or others.

Extrajudicial Measures

- Less formal responses to crime than court proceedings that are used to deal with youth who have broken the law. They can be used instead of formal charges and formal court proceedings. Common examples include police warnings and referrals to community programs.

Extrajudicial Sanctions

- These may be given by a Crown attorney before or after a young person has been charged with a criminal offence, as a way of dealing with the offending behaviour without proceeding further through the formal court system. They may be used only if a warning, caution or referral is not enough to hold the young person responsible.

Enhanced Extrajudicial Sanctions:

- This is a means to divert young persons charged, away from formal criminal proceedings into a program of rehabilitation. The EEJS program is a community based intervention.

Federal Crown

- A prosecutor hired by the Federal government to prosecute offences under certain federal laws, including the Controlled Drugs and Substances Act, or the Income Tax Act.

Fine

- A sentence imposed for a criminal offence. A fine can be imposed on its own, or in combination with another sentence, most often with probation.

Flagged

- A term used by the Crown and police to describe when Jacob has been identified as a high-risk offender. If Jacob has been identified as a high-risk offender he can be "flagged" locally, or nationally.

Forensic Psychiatric Hospital

- One of ten psychiatric programs in the province of Ontario that can assess and/or treat Jacob for the issues of fitness to stand trial or criminal responsibility on account of mental disorder.
- Only those Accused who have been found either unfit to stand trial or not criminally responsible on account of mental disorder and are under the supervision of the Ontario Review Board, or are being assessed for either of those two reasons, or are being assessed for a few other specific reasons (infanticide, risk, dangerous

offender or long term offender status) can be admitted to a forensic psychiatric hospital.

Forensic Psychiatrist

- A psychiatrist that specializes in the relationship between psychiatry and the law. Forensic psychiatrists can be hired by Jacob, the Crown or the court to provide expert psychiatric evidence on various issues, including whether Jacob is unfit to stand trial, not criminally responsible (NCR), or a risk to society.

Hybrid Offence

- A criminal offence for which the Crown can choose to proceed by summary conviction or by indictment. Most offences are hybrid offences.

Indictable Offence

- One of the more serious criminal offences, for which the Crown has no choice but to proceed by indictment.
- Information / Indictment
- The actual document alleging the offence(s) Jacob is charged with. A police officer swears an information against Jacob. If Jacob is charged with an indictable offence and chooses to have a trial in the Superior Court of Justice, the information will become an indictment after the preliminary inquiry.

Judicial Officer

- A term used in this booklet to refer to a Justice or the Peace or a Justice. For example, both a Justice and a Justice of the Peace have the jurisdiction to order a Form 2 under Ontario's Mental Health Act. Therefore, the term Judicial Officer is used.

Justice

- Judges who preside in the Ontario Court of Justice and Superior Court of Justice are called "Justices". They are addressed as "Your Honour". Justices preside over criminal cases, family law proceedings, and various other matters.

Justice of the Peace

- Justices of the Peace preside in Provincial Offences Court, as well as in criminal bail court and first appearance court / adjournment court. They are addressed as "Your Worship".

Keep Fit Order

- An order under section 672.29 of the Criminal Code. If Jacob is fit to stand trial, but there is a risk he may become unfit to stand trial as a result of his mental disorder, the court can order that he be detained in a forensic psychiatric hospital rather than a regular prison in order to ensure that he remains fit to stand trial.

Keep the Peace

- A term used in probation orders, bail releases, and peace bonds, usually written as "keep the peace and be of good behaviour", which generally means to follow the laws of the province and country.

Make Fit Order

- An order under section 672.58 of the Criminal Code. If Jacob is found unfit to stand trial, but a forensic psychiatrist has given an opinion that he could become fit if treated at a forensic psychiatric hospital, the court can order treatment of Jacob. Certain strict conditions must be met, including that the order can only be made once, that it cannot be longer than 60 days, and that it must be the least restrictive and least intrusive possible. This is the only section of the Criminal Code that allows the medication of Jacob against his will. A defence counsel must be appointed to represent Jacob before such an order can be made, and Jacob has the right to argue against the order.

Mental Disorder

- The term used in both the Criminal Code and Ontario's Mental Health Act. Under the Criminal Code a mental disorder is defined as "a disease of the mind". Under Ontario's Mental Health Act a mental disorder is defined as "any disease or disability of the mind".

- In this booklet the term mental disorder is used, as well as the more general “mental health issues”.

Mental Health Act

- The Ontario statute that governs psychiatric hospitals, psychiatric admissions, and various other aspects of mental health law in the province.

Mental Health Diversion

- A program for accused with mental health issues who are charged with minor criminal offence(s) and have limited prior criminal involvement. If Jacob successfully completes a mental health diversion program his charge(s) will be stayed.

NCR - Not Criminally Responsible

- A defence to a criminal charge under section 16 of the Criminal Code. This defence is available to Jacob if his mental disorder was such that it rendered him incapable of appreciating the nature and quality of his offence or of knowing it was wrong.

Oath / Affirmation

- When a witness, victim, or Jacob takes the stand to testify they must swear to tell the truth or affirm to tell the truth. To swear an oath is to swear on a bible or other religious book, while to affirm is to make a solemn promise to the Court.

Officer-in-Charge Undertaking (with Promise to Appear)

- A form of release under which Jacob is arrested and taken into custody, but later released from the police station upon signing an undertaking with certain conditions.

Pardon (Record Suspension)

- A legal forgiveness of a criminal conviction. Section 748 of the Criminal Code and the federal Criminal Records Act govern who is eligible for a pardon. If Jacob is granted a pardon for an offence it is no longer part of his criminal record. The pardon is automatic if no adult charges are incurred.

Peace Bond

- Similar to a restraining order, a peace bond contains terms that Jacob must follow. A peace bond is not a criminal sentence, or part of a criminal record, but breaching a peace bond can result in a criminal charge.
- Peace bonds can be either a common law peace bond, in which a Justice uses his or her power under the common law to order Jacob into a peace bond; or a peace bond under s.810 of the Criminal Code.

Plea Resolution

- An agreement between the Crown and Defence Counsel (or Jacob if he is self-represented) whereby both sides have agreed that Jacob will plead guilty to certain offences and the Crown will withdraw others, and the Crown will seek a specific sentence. Both sides to a plea resolution must be aware that the final decision as to sentence always rests with the presiding Justice.

Plea Inquiry

- Prior to Jacob entering a guilty plea the Justice will ask Jacob or his counsel certain questions to ensure that Jacob is entering the plea voluntarily, that Jacob understands he must admit the facts of the case, that he understands the consequences of the plea, and that Jacob is aware that no matter what plea resolution has been discussed, the sentence is always up to the Justice.

Preliminary Inquiry

- If Jacob is charged with an indictable offence, other than an absolute jurisdiction offence, he has the right to choose to have a preliminary inquiry in the Ontario Court of Justice prior to having his trial in the Superior Court of Justice. During a preliminary inquiry the Crown must prove that it has enough evidence to take the case to trial, and Jacob has the right to request to hear from specific Crown witnesses.

Pre-Sentence Report

- A report ordered by a Justice to assist in sentencing Jacob. A pre-sentence report is written by a probation officer, and includes Jacob’s background, family supports, current issues, and some suggestions on sentence.

Judicial Pre-Trial Meeting

- A meeting between the Crown, defence counsel and the Justice during which they discuss the case without prejudice to either party.

Probation

- A sentence imposed for a criminal offence. A probation order can be for any length of time up to two years. A probation order will have terms that Jacob must follow. The terms relate to the offence and the causes of it. Common terms include reporting to a probation officer, to take counselling as directed, not to have contact with certain people, not to consume alcohol or drugs, or not to possess weapons. The order can include a term to continue under the care of a family doctor and/or psychiatrist and to take medication as prescribed, but only if Jacob consents to such a term being added to the probation order.

Recognizance

- A form of bail release in which Jacob pledges an amount of money to the court that he will follow the terms of his bail. A recognizance can also include a surety who also pledges money that he/she will supervise Jacob. If Jacob resides more than 200km away from the jurisdiction in which he is charged a recognizance can include a certain amount of money being deposited in advance of Jacob being released.

Recidivism

- The act of a person repeating an undesirable behavior after they had experienced negative consequences of that behavior, particularly criminal behavior, also known as re-offending.

Restorative Justice

- An approach to justice that focuses on the needs of the victims and the offenders, as well as the involved community. This contrasts to more punitive approaches where the main aim is to punish the offender, or satisfy abstract legal principles. Victims take an active role in the process.

Section 19 Conference

- A gathering of a group of people with some responsibility or knowledge of the offending youth to discuss what measures might assist that youth.

Section 34 Assessment

- Reports prepared by mental health professions that provide an objective assessment of any mental health concerns that may be relevant to Jacob’s functioning and disposition decision-making, any criminogenic factors underlying his behavior, potential responsiveness to therapeutic treatment, and may address Jacob’s risk for recidivism.

Search Incident to Arrest

- If Jacob is arrested the police have the right to conduct a preliminary search of his person and his immediate surroundings for evidence or anything that might be dangerous to Jacob or to them, such as weapons.

Sentence

- The punishment imposed if Jacob is found guilty of an offence.
- Stay of Proceedings
- An application by the Crown to suspend the charge(s) against Jacob. A stay is similar to a withdrawal of the charge(s), except that the Crown can recommence the proceedings against Jacob within 1 year on an indictable offence and 6 months on a summary conviction offence. The Crown must have a valid reason for recommencing proceedings, e.g. Jacob failed to complete a diversion program.

Subpoena

- A legal document ordering a witness to attend Court and give testimony. A subpoena may request that the witness provide oral testimony, e.g. an eye witness; or that they bring documents or records to Court with them, e.g. medical records

Summary Conviction Offence

- One of the less serious criminal offences, for which the Crown has no choice but to proceed by summary conviction. Most summary conviction offences carry a maximum sentence of imprisonment of 6 months.

Summons

- A legal document commanding Jacob to appear in court at a specific time and location to face charge(s). A summons may also include a time and location for Jacob to attend for fingerprinting.

Undertaking

- A form of bail release in which Jacob promises the court to abide by certain conditions. No money is pledged, and no sureties are required.
- An undertaking can also be a promise by a lawyer to the court or another lawyer to do a certain task. An undertaking by a lawyer is a formal promise and the task must be completed.

Unfit to Stand Trial

- Jacob is unfit to stand trial if he is unable to conduct a defence during the course of his criminal trial as a result of his mental disorder. In particular, if Jacob is unable to understand the nature of the proceedings, or the possible consequences of the proceedings, or is unable to communicate with counsel, he will be found unfit to stand trial.

Verdict

- The decision of the Court as to whether Jacob is guilty or not guilty of the charge(s).

Victim

- The victim of a criminal offence. A victim can be the direct victim of the crime, e.g. a person who was assaulted; or an indirect victim, e.g. a family member of someone who was killed as a result of a crime.

Victim Fine Surcharge

- A monetary amount added to Jacob's sentence. Money collected goes towards various programs to assist victims of crime. The surcharge is automatically added to Jacob's sentence unless the Justice specifically refuses to order it.

Victim Impact Statement

- A statement prepared by a victim outlining the impact of the crime, and provided to the court at Jacob's sentencing. It can be in written form, or provided orally. The victim can outline the emotional impact, financial impact, and/or physical impact of the crime, but cannot include their opinion as to the appropriate sentence.

Withdrawal of Charges

- The Crown can end the case against Jacob by withdrawing the charges. The Crown can withdraw the charges at any time up until a plea is entered. After a plea is entered the Crown must have the court's approval to withdraw charges.

Witness

- A person who can provide evidence in a criminal case. Witnesses can be called by the Crown or defence, or even by the court in rare cases. Most witnesses are eye witnesses, who saw or heard something that directly relates to the case. There are also business witnesses, like a bank manager who brings someone's bank records to Court, and there are also expert witnesses, e.g. a psychiatrist, who can provide an opinion on specific issues.

- The statute that governs accused persons charged with offence(s) that occurred while they were between the ages of 12-17. This includes accused who are currently age 12 to 17, or accused who are now adults but the offences were committed while they were between the ages of 12-17. Offences under the YCJA are the same as offences under the Criminal Code, but sentencing under the YCJA has different principles.

Youth / Young Person

- An accused charged under the YCJA.

Youth Forensic Assessment

- The medical, psychological or psychiatric report of young persons for Court purposes.

Youth Record

- A youth record is any document that connects a youth to a criminal case under the Youth Criminal Justice Act. Youth records include all the information kept in police, court, government or non-government agency records about an youth's involvement with the youth criminal justice system.

- YCJA – Youth Criminal Justice Act

APPENDIX B:

Unfit to Stand Trial and Not Criminally Responsible

While it is possible for youth to be found unfit to stand trial or not criminally responsible it is not a common occurrence.

UNFIT TO STAND TRIAL (FITNESS)

Every accused is presumed fit to stand trial. If there is a possibility that Jacob is unfit to stand trial, then all proceedings must stop until that issue is decided. This is because it would be unfair for criminal charge(s) to continue if Jacob does not understand what is going on, or what jeopardy he may be in, or if he cannot communicate with his counsel.

The Crown, defence, or Justice can raise concerns about Jacob's fitness. Often, all three agree that there is reason to be concerned that Jacob may be unfit. In some situations it may be easy to tell that Jacob is unfit, for example, if he is clearly delusional and rambling in court. In other situations it may be extremely difficult to determine if Jacob is unfit to stand trial, and it may only become apparent to his defence counsel or duty counsel when they try to obtain instructions from him.

In some cases the fitness issue can be resolved by the Justice asking Jacob some question about his case. Questions commonly asked include:

- Who is the Crown? What is their role?
- Who is your defence counsel? What do they do?
- What is the Justice's role?
- What can happen to you if you are found guilty?

If Jacob's answers show that he understands the court process and its consequences, then he will likely be found fit and the case will continue. If Jacob's answers raise concern about whether he is fit to stand trial, or if it is a case in which it is obvious from the start that Jacob may be unfit, then a forensic psychiatric assessment will be ordered to explore the fitness issue.

The Crown, defence counsel / duty counsel, or Justice can request a fitness assessment. The Justice must be satisfied that there are reasonable grounds to believe that the assessment is necessary to determine whether Jacob is unfit to stand trial.

If the Justice has reasonable grounds to believe that Jacob may be unfit to stand trial and Jacob does not have a defence counsel, then the Justice must appoint counsel for him. This is done prior to the fitness assessment being ordered.

A fitness assessment is usually up to five days in length, although it can be up to 30 days if the Crown and defence counsel agree. If Jacob is in custody then a fitness assessment may be ordered to be done in one of the forensic psychiatric hospitals in Ontario, in which case Jacob will be remanded to that hospital.

Before the Justice tries the issue of fitness it must be determined whether the charge(s) Jacob is facing are summary conviction matters or indictable matters. If there are any hybrid charge(s) that the Crown has not made their election on, the Crown must tell the Justice and Jacob how it intends to proceed. Further, the Justice may decide not to try the issue of fitness until the Crown has proven it has a solid case against Jacob.

If the forensic psychiatrist who assesses Jacob feels that he is fit to stand trial, and both the Crown

and defence counsel agree with the psychiatrist, then the Justice will likely declare that Jacob is fit and the case will resume. However, if either the Crown or defence counsel disagrees with the forensic psychiatrist's opinion then there may be a request for another assessment and/or an argument as to whether Jacob is fit or unfit.

If Jacob is found fit, but there are later concerns about whether Jacob is unfit, the issue can be explored again at any time. If Jacob is in custody, and found fit, but there is a risk that he may become unfit if detained in a regular prison, then the Justice can order that Jacob be remanded to one of the forensic psychiatric hospitals in the province in order that he remains fit to stand trial.

If the forensic psychiatrist who assesses Jacob feels that he is unfit to stand trial, Jacob is returned to Court and if the Crown and the defence counsel agree that he is unfit, then the Justice will likely declare Jacob unfit to stand trial. However, if either side disagrees with the forensic psychiatrist's opinion then there may be a request for another assessment and/or an argument as to whether Jacob is fit or unfit.

If Jacob is found unfit to stand trial then there are two options: Try to make Jacob fit; or send his case to the Ontario Review Board (ORB).

The sections that allow a forensic psychiatric hospital to try to make Jacob fit are the only sections under the Criminal Code that allow treatment against Jacob's will. Sections 672.58 to 672.62 have strict criteria that must be met for a "make fit" order to be made. This is because it is recognized that it is highly intrusive to Jacob to force him to take treatment that he may not want. Therefore the sections try to balance Jacob's rights with the benefits to Jacob of being fit to stand trial. All of the following criteria must be met for a "make fit" order:

- The Crown must give Jacob notice in writing of their intention to seek the order;
- Jacob must be given the chance to argue against the order and call evidence at that argument;
- The order cannot be for more than 60 days;
- A forensic psychiatrist must testify:
- That he/she has assessed Jacob and he is currently unfit to stand trial;
- That he/she will use a specified treatment (usually psychotropic medication), and that the treatment will likely make Jacob fit to stand trial within 60 days;
- That the risk of harm to Jacob from the specified treatment does not outweigh the expected benefit (that he will become fit);
- That the specified treatment is the least restrictive and least intrusive method that could make Jacob fit within the 60 days;
- One of the forensic psychiatric hospitals in the province is willing to take Jacob;
- The hospital must not use psycho-surgery or electro-convulsive therapy. If Jacob comes back from the "make fit" order fit to stand trial, then the case resumes.

If the Justice chooses not to issue a "make fit" order, or if Jacob comes back from the "make fit" order still unfit to stand trial, then Jacob's case is transferred to the jurisdiction of the Ontario Review Board. That transfer can happen in one of two ways: The Justice can choose to make a disposition in Jacob's case and send the case to the ORB, who will hold another disposition hearing within 90 days; or the Justice can decline to make a disposition and send the case to the ORB, and the ORB will hold a disposition hearing within 45 days.

If Jacob becomes fit to stand trial while he is under the jurisdiction of the ORB he will be sent back to the Court, a Justice will hold his/her own hearing as to whether Jacob is fit or unfit, and if Jacob is fit the case will resume. If the Justice finds that Jacob is unfit, Jacob will return to the Ontario Review Board.

If Jacob remains unfit to stand trial he will remain under the supervision of the ORB as long as the Crown maintains the criminal charge(s) against him. If Jacob remains unfit, then every two years the

Crown must prove to the Court that they still have a case against him. This is usually done by filing affidavits from witnesses, and Jacob has a right to challenge that evidence. If the Crown can no longer prove its case, or decides not to continue with the case, then Jacob is no longer under the supervision of the ORB.

If the Crown continues to prove it has a case against Jacob, and Jacob remains unfit to stand trial, but the Ontario Review Board has concluded that Jacob will likely never become fit and that he is not a significant threat to the safety of the public, then the ORB can send the case back to the Court and request that the Court stay the charge(s) against Jacob. If Jacob remains unfit and the Crown continues to prove that it has a case against Jacob, and Jacob remains a significant threat to the safety of the public, then Jacob may stay under the jurisdiction of the Ontario Review Board for many years.

SHOULD JACOB RAISE THE NCR DEFENCE?

There are complex issues to consider when deciding whether to raise the defence of not criminally responsible by reason of mental disorder.

If Jacob is considering raising the defence he may wish to seek advice from a defence counsel with experience in NCR cases.

NOT CRIMINALLY RESPONSIBLE (NCR)

Jacob is presumed to be criminally responsible for his charges(s), unless he is proved otherwise on a balance of probabilities. Although traditionally called a defence, both Jacob and the Crown can allege that he is not criminally responsible for his charge(s). As with the fitness cases, most NCR cases in Waterloo Region are heard by the Mental Health Court.

If Jacob alleges that he is not criminally responsible for his charge(s), he can do so at any time.

If the Crown alleges Jacob is not criminally responsible, they can only do so if either Jacob has raised the issue first, or after the Court has made a finding that Jacob committed the offence(s).

Despite the fact that the Crown cannot allege Jacob is NCR unless Jacob has raised the issue first, or they have proven that Jacob committed the offence(s), the Crown may be able to seek an assessment with regard to the issue at any stage. In order to do so, the Crown must convince the Justice that there are reasonable grounds to doubt Jacob is criminally responsible on account of mental disorder, and that an assessment is necessary to determine that.

If Jacob wants the Justice to order an NCR assessment, he does not have to show reasonable grounds to doubt that he is criminally responsible on account of mental disorder. Jacob can ask the Justice for an assessment, and it will be ordered as long as the Justice feels it is necessary.

The Justice can also order an assessment with respect to criminal responsibility on his or her motion, although this would be extremely rare.

Assessments with respect to criminal responsibility are more complex than fitness assessments. As a result, they are usually 30 days in duration, and can be up to 60 days if circumstances require. If Jacob is out of custody, an assessment will be done by a forensic psychiatrist who will arrange meetings with Jacob in the community as required.

If Jacob is in custody, an assessment will almost always be done in one of the forensic psychiatric hospitals in the province. While NCR assessments can be done in prison, it is beneficial to have Jacob at one of the hospitals where he is under constant observation by psychiatric staff.

The forensic psychiatrist will provide a written assessment for the Court, outlining the evidence he/he considered, his/her opinions on Jacob's mental disorder, and an opinion as to whether or not Jacob is

criminally responsible.

Not all mental disorders qualify for an NCR finding. The mental disorder must be one that rendered Jacob incapable of appreciating the nature and consequences of her actions, or from knowing they were wrong. Common mental disorders in NCR cases are schizophrenia, bi-polar disorder, or delusional disorders. Mental disorders that are drug-induced or mental disorders such as anti-social personality disorder do not usually qualify for an NCR defence.

In some cases the assessment will support a NCR defence and both the Crown and defence counsel will agree that Jacob is NCR and jointly ask the Justice to find Jacob NCR. This can be done after a hearing in which Jacob agrees to the facts of the charge(s), or Jacob can still insist that the Crown prove the case in a trial, and then move on to consenting to an NCR finding.

In other cases one side may want to have Jacob found NCR, but the other side may not. In such cases the side that does not agree may ask the Justice for another assessment and/or argue against the first assessment, and in those cases the Justice decides whether Jacob is NCR or not. Jacob may plead guilty and agree to the facts of the charge(s) and then argue the NCR issue, or Jacob may insist that the Crown prove the case in a trial, and then if he is found to have committed the offence(s), the NCR issue will be argued.

If the Justice finds Jacob criminally responsible, then the NCR defence is not available and Jacob will be sentenced in the usual manner.

If the Justice finds Jacob not criminally responsible by reason of mental disorder, either on the agreement of both sides or after an argument, then the Justice can either send the case to the Ontario Review Board to render a disposition within 45 days, or make his/her own disposition.

The usual practice is for the Justice to send Jacob's case to the ORB without making a disposition. However, there may be reasons why the Justice may want to render his/her own disposition. For example, if the Justice is satisfied that Jacob is not criminally responsible by reason of mental disorder, and based on all of the circumstances he is not a significant threat to the safety of the public, then the Justice will give Jacob an absolute discharge. If this happens then Jacob is free to leave and he will not be under the jurisdiction of the Ontario Review Board.

If the Justice makes a disposition other than an absolute discharge, then the case is sent to the ORB and they must hold a disposition hearing within 90 days.

Jacob will be under the supervision of the ORB until he is found to no longer be a significant threat to the safety of the public, at which time he will be given an absolute discharge.

This diagram represents a simplified map of the pathways between the youth criminal justice system and the mental health system for youth aged 12 to 17. Each young person's case is very different, and some journeys through the system will not be reflected here. This system map is meant only as a general overview.

- 1 Provisions of the Youth Criminal Justice Act (YCJA)* work to reduce the use of criminal charges and formal court process for youth. When responding to youth offending behaviour, police officers are encouraged to use extrajudicial measures such as a caution, warning or referral to community services.
 - 2 A police officer's decision to arrest or charge a youth is based on various factors, including the seriousness of the offence, whether the youth is known to police, and if they pose a risk of harm to themselves, someone else or the community.
 - 3 At the bail hearing, the Youth Justice Court may release the young person or remand them into custody at a detention centre.
 - 4 At the young person's first court appearance, the Crown Attorney may impose extrajudicial sanctions. The young person consents to participate in an extrajudicial sanction that may include community service work, counselling, and treatment. Where they do not consent to an extrajudicial sanction, the youth may proceed to trial.
 - 5 If the youth is found guilty of committing an offence, the Youth Justice Court develops a pre-sentencing report to inform its decisions. This report includes the personal and family history and the present environment of the youth, and is based on interviews with family members, teachers, employers and the victim of the offence.
 - 6 Where a young person is convicted of an offence, there are 18 possible sentencing options in the Youth Criminal Justice Act that include community-based sentences (probation), and two levels of custody sentences distinguished by the degree of restraint
 - (a) Open Custody Residential Facility or
 - (b) Secure Custody Facility.
 - 7 Reintegrating the young person into the community to attend school, obtain employment or attend programs suitable to addressing the young person's needs.
 - 8 All custodial sentences for youth are followed by a mandatory period of community supervision. A probation officer will work with the youth and if appropriate with their family to develop a plan, help meet the youth's goals, reduce the chance of re-offending, monitor compliance of court-ordered conditions, and return the youth to court for any non-compliance.
- A Support from family, the school system and the community, and having access to the social determinants of health, are key to preventing youth from becoming involved with the criminal justice system.
- B In many communities, mobile crisis intervention teams and specially trained crisis intervention team officers can be called upon to support youth experiencing a mental health crisis, and to accompany them to the hospital emergency department for treatment.
- C At any point in the court process, the Youth Justice Court may order a psychological assessment of the youth, and may refer the youth to a mental health court support program for treatment and services.
- D In rare cases, the Youth Justice Court may find the youth to be not criminally responsible (NCR), which means that at the time of the offence the youth was incapable of knowing what they were doing or that it was wrong. The case is then transferred to the Ontario Review Board (ORB), which reviews each case annually and makes a decision, called a disposition, about whether to release the youth or detain them in the care of a treatment facility. This decision is based on whether the youth poses a danger to themselves, others or the community.
- E Support from family, the school system and the community, and having access to the social determinants of health, are essential to supporting the reintegration of youth back into the community and preventing recidivism.

*In Canada, YCJA is the legislation that affects young people who are in conflict with the law. The Act affects youth who are between 12 and 17 years old at the time of the offence. The youth criminal justice system is intended to prevent crime by addressing the circumstances underlying a young person's offending behaviour, to rehabilitate young people who commit offences and reintegrate them into society, and to ensure that a young person is subject to meaningful consequences for their offence.

Sources: Ontario Ministry of Children and Youth Services. (2011). Youth and the law.

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