THIRD EDITION

Mental Health, the Justice System, and YOU

Understanding the Process and the People that Can Help

A Guide for Individuals 18 Years and Older

A PUBLICATION OF THE WATERLOO WELLINGTON

HSJCC
Human Services & Justice Coordinating Committee
Waterloo-Wellington Regional HSJCC

This booklet is dedicated to Martin Tarbak (1967-2009), the original inspiration, and Shirley Gutenberg (1944-2019), whose wisdom, kindness, and dedication will not be forgotten.

ACKNOWLEDGEMENT

This is the Third Edition of Mental Health, the Justice System, and You: Understanding the Process, and the People that Can Help.

The First Edition was the vision of Lynette Fritzley, an Assistant Crown Attorney in Waterloo Region. In 2010, she successfully created a resource that would assist individuals in navigating the Criminal Justice System. The booklet also acknowledged the important and dedicated contributions of community partners.

The Second Edition, produced in 2015, expanded on the First Edition by including information and resources from the Region of Wellington.

The Third Edition is a combination of its predecessors. This edition contains additional information, updates, and reflects the fluidity of the criminal justice system and the community. I am hopeful this will continue to provide knowledge and assistance.

Much gratitude to Claudia Hutchings whose contribution and support were invaluable to me. Her countless hours of effort and input helped make this project possible.

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I would also like to thank the following people for their contributions:

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FOREWORD

This is what my rule and approach was in forming the Mental Health Court: I have always had an interest in representing the marginalized and misunderstood that society tends to ignore. Those who were living with mental health concerns fit this bill completely. When I first started representing these individuals, it was prior to the amendment to the Criminal Code and the passage of the Mental Health Act in Ontario. The passage of the Mental Health Act and the creation of the forensic system led to an explosion of persons experiencing mental health coming into contact with the criminal justice system.

People with mental health concerns were frequently brought into the justice system for minor offences. Over and over again, they couldn't make bail because of their situation, and the system treated them very badly. The system in no way responded to their needs. Over and above their needs for representation and resolution of their charges, these individuals often had significant social needs including housing and access to various community resources. Many were also unhoused. Almost none understood how to navigate the criminal justice system or how to get assistance from agencies and groups that would be able to assist with their social needs. I wanted to create an environment for these individuals that would pay attention to their reality and their needs.

I had very little faith in judges, on their own, to be able to come to an understanding of the plight of those with mental health concerns in the criminal justice system. I had very little faith in the Crown's office to be able to do that either. I was fortunate when Sharon Nicholas volunteered to handle mental health cases on behalf of the Crown's office. Even though they were busy, I believe they felt a sense of responsibility. The concept of a Mental Court Health Court was their idea. They wanted a place where they could put all the cases on one day, at one time. I wanted dedicated judges and dedicated crowns in such a court.

It was obvious to me that prolonged exposure to the plight of accused living with mental health, caught up in the system, would educate crowns and judges, and their attitudes would soften very quickly with exposure to the reality these individuals faced in criminal courts. Many of the crowns and judges indicated an interest in Mental Health Court because they wanted to make sure it wasn't a 'get out of jail free card.' I realized how skewed this attitude was and how little of it was based in reality.

So, I created a Mental Health Court where dedicated judges and crowns would be exposed to this population on a weekly basis. I knew that their attitudes would change, and they would see the need for compassion, assistance, and cooperation whenever possible. I also realized that the Mental Health Court was a place where these individuals would gather in person and court workers could better support their needs. I actively courted mental health workers and social workers with a view towards getting them to have their agencies provide funding, and be attached to the court, in some fashion. I coordinated with the courthouse to see if I could find places for those workers to attend at the courthouse and be available to assist in this court.

That was my plan. I leave it up to you, and others like you, to tell me whether or not it worked.

Stephen Gehl, Defence Counsel

IMPORTANT NOTES



Meet Jesse

- This booklet will refer to 'Jesse' (they/them).
- Jesse is a fictional adult living with mental health concerns who is entering the Justice System for the first time.
- Any resemblance to a real person is unintentional.



Informational Purposes Only

- The contents of this booklet are for informational purposes only.
- It is not a substitute for legal advice from a qualified lawyer.



Helpful Hints

- Look for practical Helpful Hints throughout the booklet.

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CHAPTER ONE:
Interaction with the Police

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

Police officers in Waterloo Region, Guelph, and Wellington County have training and education in mental health, 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.

Police officers will use their discretion in deciding how best to handle a call. If Jesse has committed a criminal offence but the police suspect that Jesse is experiencing a mental health crisis, they may explore options other than laying charges. Police discretion will be influenced by many things, including the following:

- The seriousness of the offence
- The actual violence or risk of future violence
- The danger to members of the public or Jesse themself
- Jesse's prior police involvement/prior criminal record
- Use of a weapon
- Available supports (e.g. family, friends, crisis workers, etc.)
- Available alternatives (e.g. medical support, hospital, etc.)
- Type of offence (the police have limited discretion for some offences, such as domestic violence offences, and firearms related charges)

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

- Waterloo Regional Police Service
- Guelph Police Service
- Ontario Provincial Police (OPP)

During a call, a police officer can explore the following options:

1. Issue a Warning

If the offences are minor, Jesse has no prior criminal record, and they are not a danger to themself or others, the officer may release Jesse at the scene, with a warning.

2. The IMPACT Team

The local police services have written protocols with Canadian Mental Health Association, Waterloo Wellington (CMHA WW) that encourage officers to call the Integrated Mobile Police and Crisis Team (IMPACT) for assistance. In partnership with Guelph Police, Wellington County OPP, and the Waterloo Regional Police Service, the IMPACT Team strives to improve the experience of residents and their families by providing an immediate and comprehensive crisis response in their home and/or community. Residents benefit from less-intrusive service interventions by reducing the need for emergency room and hospital involvement. This option can be used for various offences and will likely be used if Jesse is in crisis and requires assistance. It can be utilized as an alternative to laying charges, or for mental health support when charges are being laid.

Helpful Hint: For Families & Friends

If you are a family member/friend and are with Jesse when police arrive, inform the police of Jesse's mental health concerns before they interact with them. Give suggestions on how best to approach Jesse but let the police take the lead.

If the police take Jesse into custody, offer them information on any medical concerns/ medication and provide instructions they will need for their 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

Section 17 of the Ontario Mental Health Act:

When 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:

- *Has threatened or attempted or is threatening or attempting to cause bodily harm to himself or herself*
- *Has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm*
- *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*
    - *serious bodily harm to the person;*
    - *serious bodily harm to another person; or*
    - *serious physical impairment of the person,*

The police officer may take the person in custody to an appropriate place for examination by a physician.

If Jesse has committed a criminal offence and meets the criteria under section 17 of the Ontario Mental Health Act, the police will use their discretion to proceed with criminal charges, apprehend Jesse under Ontario's Mental Health Act or both. The police will consider different factors, as mentioned previously, in making that decision.

Who Lays the Charge?

In Ontario, it is the police that lay the charges, not the victim of an offence. That 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 charges will be laid.

Arrest

The more serious the charges, the more likely the Criminal Code and public safety concerns will remove the police's discretion, and Jesse will be arrested. If public safety concerns can be addressed at the scene, Jesse may be released, with terms to follow, and given a date for a future court appearance. Otherwise, Jesse will be taken into custody and either released at the police station or held and will appear in bail court.

If Jesse is arrested, they have the right to know why they are being charged, and they must be told they can contact and consult legal counsel. If Jesse wishes to speak to a lawyer, they must be given an opportunity to do so as soon as possible, and the police should not question them until after they have spoken to a lawyer. Jesse has the option to decline to speak to a lawyer.

As an alternative to contacting a lawyer of their choice, Jesse 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, 7 days a week, to assist people who are under arrest and are unable to speak to a defence lawyer of their choice.

Helpful Hint: Legal Aid Ontario

Legal Aid Ontario: 1-800-668-8258 or legalaid.on.ca

CHAPTER ONE SUMMARY

- Jesse may have contact with the police in many places.
- If the situation is minor and low risk, police may give Jesse a warning and let them go without laying charges.
- If police think mental health is a factor, they may look for options other than charging Jesse. Their decision depends on safety concerns, how serious the situation is, Jesse's history, whether a weapon is involved, and what supports are available.
- Police may call the IMPACT Team to help during a mental health crisis. The IMPACT Team brings mental health workers to help support Jesse in the community instead of, or along with, criminal charges.
- Under Ontario's Mental Health Act, police can take Jesse to a hospital for a mental health check if they believe Jesse could seriously hurt themself or others. Police may still lay charges.
- In Ontario, police decide whether charges are laid. If Jesse is arrested, they have the right to know why and to speak with a lawyer or Legal Aid before answering the police's questions.

CHAPTER TWO:
Release from Custody

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

Summons

- Jesse is arrested but released at the scene without conditions. A summons is served upon them at a later date, outlining the charges they are facing, the date and time, courtroom number, and courthouse address for their first court appearance.
- The summons may also contain a separate date, time and location for Jesse to attend for photographs and fingerprints to be taken for identification purposes.
- Summons are also used to correct charges: if the police have decided to lay more and/or different charges, a "corrective" summons may be used to inform Jesse of the changes and possibly a new court date.

Appearance Notice

- Used for many types of non-indictable offences.
- Jesse is arrested but released at the scene and given an appearance notice. The appearance notice will have a date and time for their first court appearance, as well as the courtroom number and location.
- The appearance notice may also contain a separate date and time and location for Jesse to attend for photographs and fingerprints to be taken for identification purposes.
- There are no conditions to follow.

Police Undertaking/Promise to Appear

- Jesse can either be arrested and released at the scene or taken into police custody.
- If released at the scene, Jesse is given either a Promise to Appear, which contains a date, time and location of their first appearance and/or an Undertaking. An undertaking contains certain conditions they must follow. These could include not to contact victims, not to attend certain places, and to reside at a certain address and not move from that address without notifying the police. The Undertaking will also include an identification date and location, and a court appearance date and location.
- If taken into custody, Jesse will be transported to a Police Division. Once at the police station, Jesse could be released with a Promise to Appear and/or an Undertaking or be held in custody to attend bail court.

It is a criminal office for Jesse not to attend a court/identification date or to disobey any of the conditions of the undertaking.

Bail

If the police determine it is necessary to hold Jesse for bail, Jesse must go before a Justice of the Peace within 24 hours of the arrest. If Jesse is charged and held for bail during the work week, they will be brought to a Bail Court (also called Show Cause Court) at the Ontario Court of Justice. If Jesse is held for bail on the weekend or on a statutory holiday, Jesse will appear virtually in the Weekend and Statutory Holiday (WASH) Court in London.

Some offences have special rules regarding bail. The offences listed in section 469 of the Criminal Code are the most serious (e.g. murder, treason) and bail must be formally applied for in the Superior Court of Justice.

Bail Court – Released on Consent of the Crown

When Jesse first appears in Bail Court, the Crown will review the charges and details (allegations) provided by the police, contained in the Crown Brief. The Crown will then decide whether to release Jesse on bail or hold Jesse in custody for a bail hearing (show cause hearing).

Main Factors the Crown Will Consider

- Type of charges
- Details of the offences
- Jesse's criminal record and prior police occurrences
- Safety of victims and the public at large
- Likelihood Jesse will return to court if released
- Likelihood of Jesse committing further criminal offences if released
- Supports available in the community

Although the Crown may consent to Jesse's release and will propose conditions Jesse has to follow, the final decision about Jesse's release always remains with the Justice of the Peace.

The Crown can suggest Jesse be released on 5 different types of releases:

1. **An Undertaking without conditions:** The only requirement is that Jesse must attend Court as directed.
2. **An Undertaking with conditions**: Conditions depend on the charges Jesse is facing, but can include a curfew, no contact with the victim/witnesses, not to attend certain places, no alcohol or drugs, or/and no weapons.
3. **A Recognizance**: This is similar to an Undertaking with conditions, but Jesse pledges a monetary amount to the court and agrees they will follow terms specified by the court.

4. **A Recognizance with one or more sureties:** Similar to an Undertaking with conditions, Jesse pledges a monetary amount to the court that they will follow specific conditions, and a person responsible for Jesse, called a surety, pledges a monetary amount that they will supervise Jesse and ensure they follow the court-imposed conditions.
5. **A cash recognizance:** Used if Jesse resides more than 200 km away from the place in which they are charged. This is similar to a recognizance, but the money is not pledged and is actually deposited with the Court in order to secure Jesse's release.

It is a criminal offence for Jesse to violate any terms of the bail release.

> **Helpful Hint: Bail Court**
>
> If you want to support Jesse at bail court, arrive at the Court House and look for the bail court duty counsel (or private counsel if Jesse has retained one). Explain who you are and who you are there to support. Tell them about Jesse's mental health conditions and whether medication is necessary. If you are willing to be a surety, make sure you have photo identification (for a criminal record check) and consider what conditions would assist you in supervising Jesse. The length of time you may be required to be a surety may be several months. If Jesse does not comply with the bail conditions, the money promised to the court may be forfeited.

Bail Court – Released after Bail Hearing

If the Crown does not consent to Jesse's release, Jesse has the right to have a bail hearing. While a bail hearing may be done the first day Jesse appears in court, it is more likely that the case will be adjourned a day or more for the hearing. During that time Jesse will be remanded (held) in custody. Female accused are sent to the Vanier Centre for Women, while male accused are sent to the Maplehurst Correctional Complex. If the accused is gender diverse, if they prefer, they will be placed in the institution that aligns with their self-identified gender identity.

In most bail hearings the Crown has the onus of convincing the Judicial Officer (Often a Justice of the Peace) that Jesse should be held in custody until their charges are dealt with. There are three possible grounds for Jesse's detention:

1. If released they will not return to Court.
2. Protection of the public (including a victim) and the likelihood Jesse will commit a further offence or interfere with the justice process.
3. Releasing Jesse will undermine public confidence in the justice system. This is generally reserved for more serious offences.

In some cases, the onus may be on Jesse to prove they should be released. These are called "reverse onus" bail hearings. Most reverse onus hearings occur by Jesse acquiring additional charges while already being on another form of release.

If Jesse is released by the Justice of the Peace, they will determine the type of release and what conditions to impose. Both Jesse and the Crown have a right to appeal the bail decision, called a Bail Review, to the Superior Court of Justice. If the Justice of the Peace decides that Jesse cannot be released back into the community, Jesse will be detained pending completion of their charges. The decision must be based on one or more of the three grounds for detention listed above.

Jesse can consent to their detention in custody at any time, without having a bail hearing. This is usually only done in cases involving serious violence or if Jesse has a lengthy criminal record. This should not be done without consulting defence or a duty counsel.

Bail Programs

If Jesse does not have a family member or friend that can act as a surety, they 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 Jesse themself.

Verification requires Jesse to complete an interview that gathers information that will be shared with the court to determine if Jesse should be released from custody. The interview is then verified by contacting relevant individuals and agencies, and a bail supervisor will advise the court on whether Jesse is suitable for the program.

Supervision begins once Jesse is released with a judicial order under the condition that they report to the local agency bail program, attend all scheduled court dates, and abide by any bail conditions.

Bail programs in Waterloo Wellington:

- Waterloo Region Bail Program
- The Healing of the Seven Generations (Dehsahsodre Legal Services) is available for Indigenous, Métis and Inuit Peoples
- John Howard Society Guelph Bail Verification and Supervision Program

Helpful Hint: Approaching the Bail Crown

While you are welcome to speak to the Bail Crown, it is best to speak to duty counsel or retained counsel first. Duty or retained counsel's main obligation is to assist Jesse. The Crown can disclose any information you provide, for any purpose they feel necessary, to the court, the police, and to Jesse. If you want to be a surety for Jesse, expect that the Crown will have questions for you and will either ask you outside of Court or have you take the stand and provide sworn testimony.

If Jesse is released on their own recognizance and fails to attend Court or is convicted of breaching one of their bail terms, the Crown can seek an order for Jesse to forfeit the money they pledged to the Court.

If Jesse is released on a recognizance with one or more sureties and fails to attend Court or is convicted of breaching one of their bail terms, the Crown can seek the forfeiture of the monies that Jesse 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. Jesse and the surety/sureties will receive a notice of estreatment by registered mail with the date, time, and location of the estreatment hearing.

Jesse and the surety/sureties are allowed to attend the hearing and try to convince the presiding Superior Court Justice that a judgment for the amount pledged should not be issued against them. If Jesse and the surety/sureties do not attend it is likely a judgment will issue against them. The Sheriff oversees collecting estreatment judgments.

When does Bail End?

All forms of release are in effect until Jesse's case is completed/resolved, or their bail release is otherwise changed by a Judicial Officer (Justice of the Peace or Judge).

If Jesse has any questions about bail, or if they want to vary the terms, they should contact defence counsel or a duty counsel.

Revoking a Surety

Jesse's surety can change their mind about being a surety at any time, for any reason. To be removed as Jesse's surety, they must attend at the Courthouse to legally revoke being the surety. The surety does not have to provide a reason for doing so. Once the surety is removed, a warrant will be issued for Jesse's arrest, but the surety's duties do not end until Jesse is arrested by the police.

CHAPTER TWO SUMMARY

- Police releases go from least to most serious. They include:
  - A summons or appearance notice (no rules to follow).
  - A police undertaking or promise to appear (may have rules).
  - Held for bail, which involves the court and may mean staying in custody.
- With a summons or appearance notice, Jesse can be released right away with no conditions but must go to court and may need to attend fingerprinting and photos. Not attending fingerprinting or court is a criminal offence.

- A police undertaking or promise to appear may include rules like not contacting certain people, staying away from certain places, or living at a specific address. Breaking these rules or missing court is a criminal offence.
- If police decide to hold Jesse for bail, they must see a Justice of the Peace within 24 hours. Jesse may be released from bail court or after a bail hearing.
- When deciding about bail, the court looks at how serious the charges are, Jesse's past record, safety of others, whether Jesse will go to court, and whether supports are available.
- Bail can include different types of release, from no conditions to rules that involve money, a Surety (someone who supervises Jesse), or a cash deposit. Breaking bail rules is a criminal offence.
- Bail rules stay in place until the case is completed or the court varies them.
- A Surety can stop being a surety at any time by applying to be removed as Surety.
- Not following bail rules can lead to jail or losing money.

CHAPTER THREE:
The Role of the Crown

The Crown represents the public in the prosecution of criminal offences. The phrase "the Crown" refers to the office of the Crown Attorney generally, while the word "Crown" is used to refer to individual Crown Attorneys, Deputy Crown Attorneys, Assistant Crown Attorneys, and Crown Counsel. All Crowns are employed by Ontario's Ministry of the Attorney General.

The Crown is a separate entity from the police. While they do work closely, the Crown and the police have different responsibilities and different standards of proceeding with criminal charges. The police must have reasonable grounds to believe an offence has been committed in order to lay charges, while the Crown must have a reasonable prospect of conviction and be satisfied that it is in the public interest to proceed with the charges.

The Crown will treat Jesse 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 Jesse's interests.

Certain offences are prosecuted by the Federal Government's Public Prosecution Service of Canada. These prosecutors are often called "Federal Crowns." 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*.

Therapeutic Court Crown

The Region of Waterloo and the Guelph Wellington Region have a Crown assigned to the Mental Health Court and Wellness Court respectively, who oversee all mental health and wellness files. If Jesse or Jesse's counsel would like to have their case heard in one of the Regional Therapeutic Courts, it will be the assigned Crown, together with the CMHA Mental Health Court Coordinator, who will assess Jesse's suitability for the Court.

If Jesse's case has been moved into a therapeutic court, then the Assigned Crown will monitor Jesse's case as it moves through the criminal justice system. The Assigned Crown has an understanding of *Ontario's Mental Health Act,* mental disorders, community partners, and the factors that are unique to cases in a therapeutic court.

Meetings with the Crown

If Jesse has hired defence counsel, then Jesse should not discuss their case with a Crown. Instead, the Crown and defence counsel will discuss Jesse's case.

If Jesse is representing themselves because they have not retained legal counsel, it is their decision whether to discuss the case with a Crown. If they choose to, Jesse can contact the Crown's Office to set up a meeting, called a "resolution or pre-trial meeting."

Jesse'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 Jesse, as Jesse has a right to all relevant information the Crown possesses. It may be beneficial for Jesse's family and friends to speak to Jesse's defence counsel/duty counsel prior to speaking to the Crown, to prevent disclosing something that might upset or prejudice Jesse. The Crown cannot discuss the details of Jesse's case with any family or friends in Jesse's absence.

If one of Jesse's family members or friends is the victim of Jesse's alleged offence, then the Crown will be able to discuss more details of the case. The Crown has an obligation to a victim of a crime to keep them informed. The Crown will try to explain the process, and respect and consider the victim's input. However, it is only one of a number of considerations the Crown must look at when deciding how to proceed with Jesse's case.

CHAPTER THREE SUMMARY

- The Crown represents the public in criminal cases and works for Ontario's Ministry of the Attorney General.
- The Crown is separate from the police. Police decide when to lay charges, but the Crown decides whether to continue the case based on assessing the evidence (reasonable prospect o convection) and whether it is in the public interest.
- The Crown must treat Jesse fairly and with respect, but their job is to protect public safety and the justice system, not to act in Jesse's personal interest like a defence lawyer does.
- Criminal offences, like drug and tax offences, are handled by Federal Crown prosecutors instead of Ontario Crown prosecutors.
- In Guelph Wellington and Waterloo Region, a Crown works with Mental Health Court and Wellness Court cases and partners with CMHA WW to decide if these courts are a good fit and to follow the case.

CHAPTER FOUR:
Defence Counsel/
Duty Counsel Assistance

If Jesse is arrested by the police, they must be informed of their right to contact defence counsel, or a legal aid duty counsel. If they choose to exercise that right, Jesse must be given the opportunity to contact one as soon as possible. Jesse also must be given privacy when speaking to counsel unless there is a reason why this cannot be done, e.g. they are in the hospital and there is no way to ensure privacy. If Jesse contacts a defence counsel upon their arrest, they are under no obligation to hire that specific counsel.

Defence Counsel

Defence counsel plays a crucial role in the criminal justice system. They represent Jesse's interests and ensure Jesse is treated fairly throughout the process. The criminal justice system is complex, and defence counsel will assist Jesse in understanding and navigating the process.

There are many criminal defence counsels in Waterloo Wellington. Jesse should find one they feel comfortable with and have confidence in. Also, defence counsel will charge different rates, and if Jesse is paying for a lawyer with their own money, they may wish to compare the rates of a few counsels before deciding on one. If Jesse is paying for a lawyer and loses confidence in them, Jesse has the right to dismiss that counsel.

Jesse's defence counsel's primary obligation is to Jesse, and this remains the case even if counsel is paid for by an outside party. For example, if Jesse's family pays, the defence counsel works for Jesse and must follow Jesse's instructions, not those of their family. There may be situations in which Jesse and their family do not agree or situations in which Jesse directs their defence counsel not to share information with their family.

Legal Aid Ontario

If Jesse cannot afford to retain defence counsel, then they can apply to Legal Aid Ontario for assistance. Legal Aid Ontario funding is dependent on several factors: yearly household income; possession of any assets or savings; and what the Crown's screening position is upon conviction.

Jesse can apply for Legal Aid by phone or online. They will need to have their Crown screening form as well as banking information.

The Crown's position is on the screening form, which is part of the disclosure. If Jesse is approved for Legal Aid assistance they will be given a certificate number that they can provide to the defence counsel they would like to retain. Most criminal defence counsels accept Legal Aid certificates.

If Jesse is denied Legal Aid or the certificate is cancelled, they can ask for a review. Jesse must submit the request to Legal Aid within 22 days of receiving the refusal notice. Some exceptions apply if Jesse is hospitalized or in custody. The review will not be accepted if submitted past the deadline.

Duty Counsel

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

Duty counsel is available in the courthouse to assist Jesse on the days they have a court appearance, whether they are in or out of custody. Duty Counsel can appear with Jesse on adjournments, bail appearances, bail hearings, and guilty pleas. Duty counsel cannot attend a scheduled pre-trial or represent Jesse at a trial.

CHAPTER FOUR SUMMARY

- Jesse has the right to contact a lawyer or duty counsel immediately after arrest and must be given privacy when doing so, whenever possible.
- A defence counsel's role is to protect Jesse's interests. Jesse may choose or change their lawyer at any time.
- Even if someone else pays for the lawyer, the defence counsel works solely for Jesse and follows Jesse's instructions.
- If Jesse cannot afford a lawyer, they can apply for Legal Aid; if denied, they can request a review within 22 days.
- Duty counsel can assist Jesse at most court appearances if they do not have a lawyer but cannot represent them at pre-trials or trials.

CHAPTER FIVE:
The Pre-Trial/Pre-Plea Stage

The length of this stage varies from case to case and is dependent on several individual factors and conditions.

Out of Custody

Every case is unique, but the usual progression for Jesse's case out of custody is as follows:

1. Release from custody by the police or at bail court.
2. Appear in first appearance/adjournment court approximately 2-6 weeks following release.
3. If Jesse has not retained defence counsel by their first appearance, they can request the assistance of duty counsel.
4. At the first appearance, Jesse may request their disclosure from the Crown Attorney's office.
5. Jesse will have to identify themselves and confirm their birth date. The charges may be read in court. Jesse will be asked their language of preference for court appearances. The Crown may elect how the charges will proceed (summary or indictment).
6. Jesse's case will likely be adjourned for 2-3 weeks for Jesse to complete the following:
    - Review disclosure
    - Apply for Legal Aid and, if granted, retain counsel or retain defence counsel with their own funds
    - Discuss the charges with their defence counsel or other supports
7. If Jesse is being offered a Direct Accountability Program (DAP) they may enter the program at or after the first appearance. Jesse can also adjourn the case to consider if they want to participate in the DAP program.
8. Jesse's case will likely be adjourned 2 to 3 more times for Jesse to work through the above options. There will also be a Crown pre-trial during this time.
9. After the Crown pre-trial and several appearances, Jesse will have to set a date for either a guilty plea or a trial.
10. On average, this stage, from Jesse's first appearance to a guilty plea could be several weeks. If Jesse chooses to have a trial the period from the first appearance to a trial in the Ontario Court of Justice may be approximately 4-7 months. If Jesse is charged with an indictable offence and chooses to have a trial in the Superior Court of Justice, then the time between the first appearance and trial will be longer.

In Custody

If Jesse is in custody, then most of the above steps still occur but at a faster rate. In this case, it is particularly important for Jesse to consider applying for Legal Aid or retaining a defence counsel privately as soon as possible.

Crown Resolution/Pre-Trial Meeting

A Crown resolution pre-trial meeting is held between the Crown and defence counsel or with the Crown and Jesse. If Jesse is self-represented, they can bring support to the pre-trial if they feel that would be helpful. This meeting is held at the Crown's office or over the phone. The meeting is not mandatory but can be helpful for Jesse in moving matters forward.

During a pre-trial, the Crown and defence counsel/Jesse will discuss how each sees the case proceeding and potential resolution options.

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

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

If Jesse is in custody and is self-represented, then a pre-trial will be held in Court.

> **Helpful Hint: When to Schedule a Pre-Trial**
>
> It is best for Jesse to wait to schedule a pre-trail until after their first appearance so that they can receive the disclosure and review the case against them prior to pre-trial.

Judicial Pre-Trial

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

Judicial pre-trials are mandatory if any trial is expected to take a day or more. A judicial pre-trial is also helpful if the Crown or defence counsel wish to discuss the possibility of resolving the case without a trial. Judicial pre- trials are held outside of court. If Jesse is self-represented, the judicial pre-trial will be held in a closed courtroom.

If Jesse's case is to be resolved by a guilty plea, the Judge who participated in the judicial pre-trial will only preside over the guilty plea if both the Crown and defence counsel/Jesse consent. If Jesse's case is going to trial, the Judge who participated in the judicial pre-trial will not be the

presiding Judge that hears the trial, and the trial Judge will know nothing about what was said at the judicial pre-trial.

Summary Offences vs. Indictable Offences

During the pre-trial stage the Crown will advise the court as to how the Crown will be proceeding on the charges. There are two options:

- By indictment
- By summary conviction

1. 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

2. Summary Convictions

Less serious offences 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

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 $5,000
- Mischief under $5,000

The Crown will consider several factors when deciding how to proceed. The most important factor the Crown considers is what the expected sentence might be if Jesse is found guilty. Summary conviction offences have a 6-month maximum jail sentence. If the facts of the case and/or Jesse's criminal record are such that a more significant penalty is possible, then the Crown will likely elect to proceed by indictment.

CHAPTER FIVE SUMMARY

- The length of time that a court process takes depends on the case. It can change based on whether Jesse is in custody, what they are charged with, and how the case moves forward.
- If Jesse is not in custody, the first court date usually happens 2–6 weeks after release. After that, there are often several court dates to allow time to review evidence and get legal advice.
- Jesse can ask for help from duty counsel, apply for Legal Aid, and review the evidence from the Crown, and then decide whether to plead guilty, join a program like the Direct Accountability Program (DAP), or go to trial.
- Pre-trial meetings with the Crown, and sometimes a judge, help talk about possible outcomes, guilty pleas, or planning for a trial. Longer trials require a meeting with a judge ahead of time.
- If Jesse is in custody, the same steps usually happen faster, so getting a lawyer or Legal Aid quickly is very important.
- Criminal charges are either summary, indictable, or hybrid. Most charges are hybrid, which means the Crown chooses how seriously the case will be treated.
- Summary offences are less serious and have lighter penalties, while indictable offences are more serious, usually take longer to process, and can lead to harsher sentences.

CHAPTER SIX:
Therapeutic Courts

Therapeutic Courts are designed to address the underlying behaviours and concerns that contribute to the criminal offense. The focus is on treatment and rehabilitation, rather than punishment, with the goal of avoiding further involvement with the Criminal Justice System.

There are a variety of therapeutic court models across Ontario. Each Region has the opportunity to operate the court in a way that best meet the needs of their community. A variety of models exist and are utilized. Each therapeutic court is customized to fit the needs of the local community that it is serving, and the services that are available within that region. Support agencies that assist these specialized courts vary widely from court location to court location. Therapeutic Courts are collaborative, community-focused, and are constantly evolving to meet the current needs of the people they serve.

Both the Region of Waterloo and Guelph-Wellington operate therapeutic courts. However, they each utilize a different model. In Waterloo Region, a Mental Health Court and a Drug Treatment Court operate once a week. In the Guelph-Wellington, a Community Wellness Court combines the principles of both Mental Health Court and Drug Treatment Court and runs once a week.

Therapeutic Courts are criminal courts; therefore, they must function within the law as defined by the Criminal Code of Canada, other criminal statues, and criminal case law. In that way it is the same as any criminal court in the province. This includes abiding by Crown polices and mandatory minimum sentences.

Mental Health Court in the Region of Waterloo

The Region of Waterloo has a Mental Health Court. It began in 2005 and runs once a week (currently every Tuesday morning).

The objectives of the Mental Health Court are to:

- Address the charges of individuals living with mental health concerns in an effective manner and in accordance with the Ontario Mental Health Act and the Criminal Code of Canada;
- Hold accused people accountable for their actions while providing effective support in the least restrictive fashion;
- Provide appropriate and thoughtful attention to accused persons with a mental health diagnosis, concurrent disorder, cognitive impairment, and dual diagnosis;

- Protect both the rights of the public and the accused, while at the same time maintaining the integrity of the criminal justice system; and
- Support the accused to receive the best possible outcome.

To be eligible for Mental Health Court, Jesse must be charged with a criminal offence in the Region of Waterloo and have:

- A connection between their diagnosis and/or symptoms and the offence
- An identified mental health concern or symptoms, dual diagnosis, Acquired Brain Injury, Fetal Alcohol Spectrum Disorder, or dementia
- Been over the age of 18 when charged
- Been willing to address the mental health concerns that contributed to the charges

Ineligible Cases:

- Impaired Operation of a Motor Vehicle
- Charges related to Paraphilias
- Charges in which substance use was the primary contributing factor of the offence

The following Court proceedings and practices are a part of the Mental Health Court:

- Ontario's Mental Health Act assessment orders (under sections 16, 21, 22)
- Uncontested release orders
- Crown pre-trials
- Judicial pre-trials
- Criminal Code s. 672 assessment orders
    - Fitness hearings
    - NCR hearings
    - Other Criminal Code s. 672 hearings
- Guilty pleas
- Mental Health Diversion

Mental Health Court cannot force people to take medication or enter a treatment program. This court is only able to order psychiatric assessments under the *Criminal Code* for specific reasons.

Waterloo Region Drug Treatment Court Program

The Region of Waterloo also runs a Drug Treatment Court on Tuesday afternoons. It is an interdisciplinary team consisting of an Ontario Addiction Treatment Centre, CMHA WW Drug Treatment Court Coordinator, Probation Services, House of Friendship, Salvation Army, Waterloo Region Bail Program, Waterloo Regional Police Services, Cambridge HART Hub, Federal and Provincial Crowns, and the presiding judge.

Drug Treatment Court Objectives:

- To provide an alternative to custody for individuals whose criminal offences have a direct connection to addiction/substance use concerns
- To provide support in addressing substance use
- To prevent recidivism and break the cycle of addiction and criminal behaviour

Eligibility Criteria for Drug Treatment Court:

- Minor to moderate criminal or drug related charges
- An acknowledged substance dependence to cocaine, opiates, crystal meth, and/or ecstasy
- A history of criminality
- Substance use is the primary factor in relation to criminal offences
- Readiness and willingness to engage with substance use related supports

Ineligible Cases:

- A criminal record containing significant violence
- Charges related to intimate partner violence, sexual harm, or paraphilias
- Firearms offences

Drug Treatment Court provides an opportunity to achieve recovery through external accountability and engagement, while working towards personal goals. Graduation from this program occurs by meeting all requirements of Drug Treatment Court. These requirements include twice weekly urinalysis, three therapeutic hours each week (groups, counselling etc), weekly connection to an assigned Court worker, attending a formal substance use treatment program, maintaining at least 90 days of abstinence, reporting all police contact, and most importantly, remaining honest.

Guelph Wellington Community Wellness Court

Guelph Wellington Wellness Court began operation in November 2023 and utilizes harm reduction and holistic methods to support individuals with mental health and/or substance use concerns who have come into contact with the judicial system. Additionally, Wellness Court is supported by an interdisciplinary team of health care professionals and social support agencies. This therapeutic court provides services to residents of Guelph Wellington.

Guelph Wellington Wellness Court operates with collaboration as its guiding principle. Multiple community agencies play a role in supporting individuals in a ‘hub’ model of coordination and collaboration. In addition to CMHA WW, the leading agency, professionals from other agencies include:

- Stonehenge Therapeutic Community
- Wyndham House
- John Howard Society
- Guelph Community Health Centre
- Traverse Independence
- Central West Specialized Developmental Services
- Community Networks of Specialized Care, Central West Region
- Guelph Probation and Parole
- Ontario Works, County of Wellington
- Ontario Disability Support Program/Guelph ODSP

Objectives of Guelph Wellington Wellness Court:

- To address the charges of individuals living with mental health concerns in an effective manner and in accordance with the Ontario Mental Health Act and the Criminal Code of Canada
- Commitment to providing an inclusive environment, free from discrimination or bias related to race, ethnicity, gender, religion, or any other aspect of identity
- Reducing barriers in service access by modeling holistic approaches to wellness (needs based, harm reduction, and person first)
- To balance the needs of the individual and the public in alignment with the Criminal Code of Canada
- To provide the best possible outcome along with ongoing connection to social support and healthcare resources upon completion

Who is Eligible:

- Those over 18 years of age
- Those ready to acknowledge concurrent issues and the connection to their criminality
- Those willing to engage with supports and participate meaningfully in the program

Who is Ineligible:

- Individuals charged with offences containing severe violence
- Individuals unwilling or not ready to address mental health/substance use concerns

The following are proceedings and practices that occur in Wellness Court:

- Ontario's Mental Health Act assessment orders (under sections 16, 21, 22)
- Release orders in partnership with Wellness Court supports
- Crown pre-trials
- Criminal Code s. 672 assessment orders
    - Fitness hearings

    - NCR hearings
    - Other Criminal Code s. 672 hearings
- Guilty pleas
- Mental Health Diversion

Wellness Court cannot force people to take medication or enter a treatment program. This court is only able to order psychiatric assessments under the Criminal Code for specific reasons.

Indigenous Peoples' Court/Gladue Court

Indigenous Peoples' Court, also known as Gladue Court, is a specialized court that handles the cases of individuals who hold status, recognize or self-identify with Indigenous, Inuit or Métis heritage, and have been charged with a criminal offence. The court was created in response to the 1999 addition to the Criminal Code and the Supreme Court decision (R v. Gladue) that makes it mandatory for sentencing judges to consider all available sentences, other than imprisonment, when sentencing Indigenous offenders.

The court recognized the history of discrimination by Canada and the criminal justice system that contributed to the over-representation of Indigenous people within the penitentiary system. To address this discrimination, courts must look at an Indigenous person's background and the impact of discrimination on them when deciding on a sentence. Several provincial courts have also developed specialized 'Gladue Courts' as a more effective means of bringing together legal and social services that specialize in Indigenous support.

Indigenous Peoples' Courts are Canadian Courts that apply the Criminal Code and case law, but also include Indigenous cultural practices and concepts, such as restorative justice. These specialized courts specifically focus on sentencing and, in some locations, also bail and case management. They do not handle trials or preliminary hearings.

Indigenous Peoples' Courts, or Gladue Courts, are not available in every courthouse and are not in the Waterloo or Wellington Regions. However, all Canadian criminal courts are required to apply Gladue principles and relevant Criminal Code sentencing and bail principles regardless of whether a matter is heard in an Indigenous Peoples' Court or a regular court. In addition to considering all alternatives to jail, the Court must also consider other types of sentences and processes that are culturally appropriate.

A Gladue Report, which is a type of pre-sentencing or bail hearing report, can be requested by the court when considering sentencing or bail for an Indigenous offender. The Gladue Report attempts to give a wholistic account of the offender's personal history and of the systemic factors affecting Indigenous people who appear before the court.

Examples of Gladue factors include:

- Is the accused person or someone in their family a residential school survivor?
- Is the accused person or someone in their family affected by the "Sixties Scoop," where the government removed Indigenous children from their homes?
- Was the accused person put in a foster home or involved in the child protection system?
- Has the accused person experienced poverty?
- Has the accused person or someone in their family experienced racism, trauma, childhood abuse, violence, or addictions?
- Has the accused person experienced systemic discrimination in their arrest or detention? For example, were they removed from their community so they could be brought to court?
- Will a jail sentence have an unreasonable or unfair effect on the accused person?

Mental Health and Justice Court Support - Canadian Mental Health Association Waterloo Wellington (CMHA WW)

CMHA WW has a number of staff that provide Mental Health Court Support across Waterloo Region, the City of Guelph and in the County of Wellington. Working with CMHA WW is voluntary. The Mental Health and Justice Team can assist in a variety of ways:

- Assisting Jesse in developing a bail release plan
- With Jesse's consent, contacting Jesse's family/friends/support workers or members of their care team
- Helping Jesse re-connect in the community and/or with culturally appropriate supports
- Connecting Jesse with mental health and/or addictions supports
- Assisting in the development of a mental health support plan
- Helping Jesse understand and navigate the court process

The Mental Health Court Support Coordination Staff also assist lawyers and Justices by providing information about local mental health resources, general information on types of mental health diagnoses, treatment options, release options, and preliminary assessments. The Mental Health and Justice Team collaborate with other community agencies who have clients with criminal charges. They can provide information to the agencies about the court process, suggest options to explore and act as a liaison between the agencies and the Crown, defence counsel, and the court.

CMHA WW Mental Health and Justice Staff are neutral. The team works closely with the Crown and defence counsel; they do not work for either party. And, while they work in the therapeutic courts, they do not work for the Court. The Mental Health and Justice Team is unique from other mental health supports in the community in that they bridge the justice system and community mental health supports.

The Mental Health Court Support Staff are excellent resources, but it is important for Jesse to keep in mind that they cannot replace the assistance of a defence counsel. In particular, the team cannot:

- Provide legal advice
- Be a surety for Jesse
- Appear on Jesse's behalf
- Testify on Jesse's behalf
- Force Jesse to seek treatment, including taking medication
- Provide access to the forensic system, including a forensic assessment or admission to a forensic hospital

The length of time that Support Coordination Staff work with Jesse will vary depending on the supports that are needed but should not extend beyond 12 months. If supports are needed beyond 12 months, the Team will work with Jesse to make referrals for longer-term support services.

Helpful Hint: Referrals to CMHA WW's Mental Health & Justice Team

Referrals can be made by contacting Here24/7 by phone at 1-844-437-3247 or by fax at 1-844-437-3329.

CHAPTER SIX SUMMARY

- Therapeutic Courts focus on treatment and support instead of punishment, with the goal of helping people address the issues that led to their charges and avoid future involvement with the justice system.
- These courts are still criminal courts, so they follow the Criminal Code of Canada and court rules, but they collaborate closely with community supports and services.
- Each region runs Therapeutic Courts differently based on local needs and available services, and the courts continue to change and improve over time. Guelph Wellington has a Community Wellness Court that focuses on both mental health and substance use, while Waterloo Region has a Mental Health Court and a Drug Treatment Court.
- CMHA WW provides Mental Health and Justice Support to help people understand court, connect to services, and plan for release, but they do not give legal advice or replace a lawyer.
- Mental Health and Justice support is usually short-term (up to 12 months) and helps bridge the justice system with community mental health and addiction supports.

CHAPTER SEVEN:
Mental Health Diversion

Mental health diversion is a pathway in which the Crown could agree to withdraw Jesse's charges if Jesse is able to prove to the court that they have addressed their mental health concerns and are actively working on their mental health and stability in the community. Diversion can only be initiated with the consent of the Crown, and participation by Jesse is voluntary.

Mental health diversion could be offered to Jesse when charged with a minor criminal offense where Jesse has no, a very old, or a limited criminal record. Most offences fall within the range of minor to moderate in seriousness, and it is up to the Crown to determine if the facts of the case make it suitable for diversion.

Jesse has no obligation to accept a diversion program. The benefit of mental health diversion is if Jesse is successful in completing the diversion program, the charges will be stayed or withdrawn.

Often in making the decision on an accused's eligibility for mental health diversion, the Crown will consult with the CMHA WW Mental Health and Justice Team. 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 Jesse's case
- it must be in the public interest to proceed with the charges
- Jesse must be fit to stand trial, and
- there must be a connection between the charges and Jesse's mental health

Jesse does not have to admit guilt prior to entering into mental health diversion. This is different from regular adult diversion which requires admission of guilt.

A workable diversion plan will reflect Jesse's needs and goals. These plans often use available or existing community support. The plan must begin and conclude within a reasonable time. The average time for a diversion plan to be in effect is six months.

The diversion plan is multifaceted and flexible. It could include any of the following:

- Counselling
- Medical support
- Community service hours
- Payment of restitution
- Group attendance

- Education
- Not incurring additional charges
- Court attendance
- Consent to speak with supports, the Crown, and defence counsel

Outcomes

Upon successful completion of a mental health diversion, charges are withdrawn, stayed, or withdrawn with a Common Law Peace bond. The goal of mental health diversion is to offer less punitive and more therapeutic resolutions through using community supports and agencies.

CHAPTER SEVEN SUMMARY

- Mental health diversion is optional and can only happen if the Crown agrees.
- To be eligible for mental health diversion, there must be enough evidence for the case to go forward, it must be in the public interest, Jesse must be able to understand and take part in court, and their mental health must be linked to the offence.
- The focus of mental health diversion is treatment and community support instead of punishment.
- Jesse does not have to say they are guilty to take part in mental health diversion.
- If Jesse successfully completes a short-term personalized diversion plan, the charges are withdrawn or stayed.

CHAPTER EIGHT:
The Forensic System

The Forensic System

There are five specific reasons a forensic psychiatric assessment can be ordered:

1. The accused is unfit to stand trial
2. The accused is not criminally responsible by reason of mental disorder (NCR)
3. The accused is found NCR, and an assessment is needed to determine what the appropriate disposition should be
4. The mind of a mother charged with the murder of their infant was disturbed at the time so that the offence is one of infanticide rather than murder
5. To determine if the accused is permanently unfit and should be granted a stay

The first two are the main types of assessments, the last three are extremely rare. These assessments, and dangerous offender/long term offender assessments, are the only psychiatric assessments allowed for in the criminal code. After the assessments are completed, there are only two ways Jesse would return to the forensic psychiatric system: if they were found unfit to stand trial or found NCR. There are no exceptions.

Sections 21 and 22 in the Mental Health Act of Ontario:

Sections 21 and 22 permit a judge to order a psychiatric assessment for a period of up to two months. A judge may use these sections of the Mental Health Act to order a forensic (risk) assessment to assist with sentencing. This is a very costly assessment and is used sparingly. Once the assessment is complete the accused will not enter the forensic system.

Unfit to Stand Trial (Fitness)

Fitness addresses the accused's mental state at the time of the court proceedings (not at the time of the offence). Every accused is presumed fit to stand trial. If there is a possibility that Jesse is unfit to stand trial, then all proceedings must stop until that issue is decided. It would be unfair to continue if Jesse cannot meaningfully participate in the proceedings.

The Crown, Defence, or Justice can raise concerns about Jesse's fitness at any time during the proceedings. Whoever raised the issue of fitness must prove that Jesse is unfit. Often, the court, defence and the Crown agree that there is reason to be concerned that Jesse may be unfit. In some situations, it may be clear that Jesse is unfit. In other situations, it may only become apparent to their Defence Counsel or Duty Counsel when they try to obtain instructions from Jesse.

In some cases, the fitness issue can be resolved by the Justice asking Jesse some questions to see if they can understand the judicial process and communicate with counsel. Questions commonly asked include:

- Who is the Crown? What is their role?
- Who is your Defence Counsel? What do they do?
- What is the Judge's role?
- What can happen to you if you are found guilty?

If Jesse's answers show they understand the court process and its consequences, then Jesse will likely be found fit, and the case will continue.

If Jesse's answers raise concerns about whether they are unfit to stand trial, then an assessment will be ordered to explore the fitness issue. The Judge must be satisfied that there are reasonable grounds to believe that a fitness assessment is necessary to determine whether Jesse is unfit to stand trial.

If the Judge has reasonable grounds to believe that Jesse may be unfit to stand trial and Jesse does not have Defence Counsel, then the Judge must appoint counsel for Jesse. This is done prior to the fitness assessment being ordered. Fitness assessments take priority over bail proceedings.

A fitness assessment is generally up to 5 days in length, although it can be up to 30 days if the Crown and Defence Counsel agree. Treatment is not part of a fitness assessment. These assessments can be done both in and out of custody, at a hospital, the courthouse, or a detention centre.

If the psychiatrist who assesses Jesse feels that they are fit to stand trial, and both the Crown and Defence Counsel agree with the psychiatrist, then the Judge will likely state that Jesse is fit, and the case will resume. However, if either the Crown or Defence Counsel disagrees with the psychiatrist's opinion then there may be a request for another assessment by a different psychiatrist.

If Jesse is found fit, but concerns emerge later about whether Jesse is unfit, the issue can be explored again. If Jesse is in custody and found fit, but there is a risk that they may become unfit if detained in a detention centre, the Judge can order that Jesse be remanded to one of the forensic psychiatric hospitals in the province. A "Keep Fit" order is made so Jesse remains fit to stand trial.

If the psychiatrist who assesses Jesse believes that they are unfit to stand trial, Jesse is returned to court. If the Crown and the Defence Counsel agree that Jesse is unfit, then the Judge will likely find that Jesse is unfit to stand trial. However, if either side disagrees with the psychiatrist's opinion, then there may be a request for another assessment with a different psychiatrist.

If Jesse is found unfit to stand trial, the Judge will order Jesse to undergo treatment to make them fit. The sections that allow a forensic psychiatric hospital to try to make Jesse fit are the only sections under the Criminal Code that allow treatment against Jesse's will. These sections have strict criteria that must be met for a "make fit" or Treatment order to be made. The Criminal Code recognizes that it is highly intrusive to force Jesse to take treatment that they may not want. Therefore, the sections try to balance Jesse's rights with the benefits for Jesse of being fit to stand trial. Each of the following criteria must be met for a Treatment order to be made:

- The Crown must give Jesse and defence counsel notice, in writing, of the intention to seek a Treatment order
- Jesse and defence counsel must be given the chance to argue against the order and call evidence
- The order cannot be for more than 60 days
- The psychiatrist must testify:
    - That they have assessed Jesse and they are currently unfit to stand trial
    - They will use a specified treatment (usually psychotropic medication), and that the treatment will likely make Jesse fit to stand trial within 60 days
    - That the risk of harm to Jesse from the specified treatment does not outweigh the expected benefit (that Jesse will become fit)
    - That the specified treatment is the least restrictive and least intrusive method that could make Jesse fit within the 60 days
- One of the forensic psychiatric hospitals in the province is willing to take Jesse
- The hospital must not use psycho-surgery or electro-convulsive therapy

If Jesse comes back from the treatment order as fit to stand trial, then the case resumes. If the Judge believes Jesse could become unfit before resolving their charges, the Judge can also make a "Keep Fit" order for Jesse to continue to receive treatment.

If Jesse comes back from the treatment order still unfit to stand trial, then Jesse's case is transferred to the jurisdiction of the Ontario Review Board (ORB). That transfer can happen in one of two ways: the Judge can choose to make a disposition in Jesse's case and send the case to the ORB, who will hold another disposition hearing within 90 days; or the Judge 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 Jesse becomes fit to stand trial while they are under the jurisdiction of the ORB, they will be sent back to the court that found Jesse unfit. The Judge will hold his/her own hearing as to whether Jesse is fit or unfit, and if Jesse is fit the case will resume. If the Judge finds that Jesse is unfit, they will return to the Ontario Review Board.

If Jesse remains unfit to stand trial they will remain under the supervision of the ORB as long as the Crown maintains the criminal charges against Jesse. Every two years the Crown must prove

to the Court that they still have a case against Jesse. This is usually done by filing affidavits from witnesses. Jesse 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 Jesse is no longer under the supervision of the ORB and is released from custody.

If the Crown continues to prove it has a case against Jesse, and Jesse remains unfit to stand trial but the Ontario Review Board has concluded that Jesse will likely never become fit and that they are 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 charges against Jesse. If Jesse remains unfit and the Crown continues to prove that it has a case against Jesse, and Jesse remains a significant threat to the safety of the public, then Jesse may stay under the jurisdiction of the Ontario Review Board indefinitely.

Not Criminally Responsible by Reason of Mental Disorder (NCR)

Unlike fitness, NCR is concerned with Jesse's state of mind at the time of the offence. Jesse is presumed to be criminally responsible for their charges, unless it is proven otherwise (on a balance of probabilities).

If Jesse alleges they are not criminally responsible for their charges, Jesse can do so at any time during the proceedings. If the Crown alleges Jesse is not criminally responsible, the Crown can only do so if either Jesse has raised the issue first as part of a defence, or after Jesse has been found or pled guilty. However, the Crown may be able to seek an NCR assessment at any stage of the proceedings. To do this, the Crown must convince the Judge that there are reasonable grounds to doubt Jesse is criminally responsible on account of mental disorder and that an assessment is necessary to determine that.

If Jesse wants the Judge to order an NCR assessment, Jesse does not have to show reasonable grounds to doubt they are criminally responsible on account of mental disorder. Jesse can request the Judge order an assessment. This order will be made if the Judge believes it is necessary. The Judge can also order an assessment with respect to criminal responsibility but this would be extremely rare.

The Defence of Mental Disorder

Section 16(1) of the Criminal Code states: *"No person criminally responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong."*

- *Incapable of appreciating "the nature and quality of the act…" The accused's mental disorder deprived him/her of the ability to foresee and measure the physical consequences of the act. Example: The accused may understand that murdering someone is morally wrong but not understand that stabbing someone can kill them.*

- *The accused's mental disorder deprived him/her of the ability to know what is morally wrong according to society's views, or the ability to rationally choose between right and wrong. Example: An accused may be experiencing a delusion that the victim is an alien that has been sent to kill the accused. The accused believes the act (of hurting the victim) is justifiable and self-defence.*

Assessments with respect to criminal responsibility are more complex than fitness assessments. As a result, they are usually up to 30 days in duration. In certain circumstances an NCR assessment can be up to 60 days. These assessments can be done both in and out of custody. If Jesse is out of custody, an assessment will be done by a forensic psychiatrist who will arrange meetings with Jesse as required. If Jesse is in custody, an assessment will almost always be done at a forensic psychiatric hospital. While NCR assessments can be done in prison, it is beneficial to have Jesse at one of the hospitals and be under constant observation by psychiatric staff.

The forensic psychiatrist will provide a written assessment for the Court, outlining the evidence they considered, their opinion on Jesse's mental health diagnosis, and an opinion as to whether Jesse is criminally responsible or not. In some cases, the assessment will support an NCR defence and both the Crown and defence counsel will agree that Jesse is NCR and jointly ask the Judge to find Jesse NCR. This can be done after a plea or trial. The verdict that is returned is that Jesse is guilty of the charges but is not criminally responsible on account of mental disorder.

In some instances, the Crown or defence may want to have Jesse found NCR but the other side may not. In such cases, the side that does not agree with the NCR finding may ask the Judge for another assessment and/or argue against the first assessment.

If the Judge finds Jesse criminally responsible, then the NCR defence is not available and Jesse will be sentenced in the usual manner. If the Judge finds Jesse is not criminally responsible by reason of mental disorder, either on the agreement of both sides or after an argument, the Judge can either send the case to the Ontario Review Board to render a disposition within 45 days, or the Judge can make their own disposition. The usual practice is for the Judge to send Jesse's case to the ORB without making a disposition.

If the Judge 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. Jesse has yearly disposition hearings after that. Jesse will be under the supervision of the ORB until they are found to no longer be a significant threat to the safety of the public.

The dispositions available in an NCR case are:

- Detention Order – Jesse is detained in a specific hospital. The level of security and access to the community may be included in the order. Jesse will continue to have an annual ORB hearing.
- Discharge with conditions – the accused may live in the community and be subject to set conditions, such as report to a specific hospital and refrain from alcohol or drug use. Jesse will continue to have an annual ORB hearing.
- Absolute Discharge – the ORB no longer would have jurisdiction over Jesse.

The Ontario Review Board (ORB)

The ORB supervises all NCR and fitness cases in the province and is a 5-member panel. The chair or acting chair must be a current or retired judge. Additionally, there are 2 psychiatrists, or one psychiatrist and one psychologist, a lawyer, and a lay person. The ORB decision on disposition does not have to be unanimous; majority rules.

ORB hearings are usually conducted at hospitals, as most ORB clients are subject to Detention Orders. If a client is living in the community the hearing could be at a local courthouse. ORB Hearings are public and informal. The Crown must be designated as an ORB Crown. The client's counsel does not need a special designation. Victims, families, and hospital staff can attend ORB hearings. As previously mentioned, annual hearings are the standard, but the ORB can convene an earlier hearing if there has been a substantial change

The Ontario Review Board's overriding concern is risk: Is the Client a significant threat to the safety of the public? If there is a significant threat, the individual will be subject to a detention order or a discharge with conditions and remain under the supervision of the ORB. If someone is not considered a significant threat, an absolute discharge is granted, and the ORB is no longer involved.

The ORB cannot order treatment without the consent of the accused and must make the least onerous and least restrictive disposition available. The following are some of the factors The ORB takes into account:

- The need to protect the public from dangerous persons
- The current mental condition of the accused
- The reintegration of the accused into the community
- Other needs of the accused
- The accused's illness, insight, willingness to take medication, response to medication, concurrent personality disorders/addiction issues

CHAPTER EIGHT SUMMARY

- Forensic psychiatric assessments are only used for certain legal reasons, most often to see if someone is fit to stand trial or not criminally responsible (NCR).
- Being fit to stand trial means the person can understand what is happening in court and can take part in their case. If someone is not fit, the court process stops until this is figured out.
- If a person is found unfit, treatment can only be ordered in specific situations. If they stay unfit, their case may be managed by the Ontario Review Board (ORB).
- An NCR assessment looks at the person's mental health at the time of the offence and whether a mental illness stopped them from understanding what they were doing, or knowing it was wrong.
- If someone is found NCR, they are not sentenced like others in criminal court. Instead, their case is supervised by the ORB.
- The ORB oversees all fitness and NCR cases and makes decisions that focus on public safety while using the least restrictive options possible.

CHAPTER NINE:
The Guilty Plea

A guilty plea involves admitting criminal liability and agreeing that certain events (facts) occurred. Therefore, a guilty plea is considered a significant sign of remorse and will be considered as a positive (mitigating) factor in sentencing. The outcome of a guilty plea is generally more favourable than the sentence Jesse would receive if found guilty at trial. By not going to trial, Jesse is credited for saving the court time and saving victims and witnesses from having to testify.

If Jesse has retained defence counsel, they will assist Jesse with the plea. In most cases Jesse's lawyer will have had a resolution meeting with the Crown before Jesse's plea to work out a plea resolution. A plea resolution will ensure that Jesse is aware of what charges they will plead to, what charges will be withdrawn, what facts they will admit, and what the Crown's sentence position will be.

If Jesse has not retained counsel, they can do the plea on their own or have duty counsel assist them. In this situation, Jesse may want to consider arranging a Crown pre-trial before the plea date to discuss a potential plea resolution and learn the Crown's sentence position. Duty counsel's role would be limited to providing advice and assisting with the plea, at the court appearance.

It is important for Jesse to be aware that despite the proposed sentencing position from either the Crown or Jesse, the final decision on sentencing always rests with the Judge. The Judge may agree with Jesse's position, or agree with the Crown's position, or they may sentence Jesse to something different from either position. If the Crown and Jesse agree on a sentencing position, known as a "joint submission," then it is unlikely that the Judge will change that position unless the Judge feels that the joint submission will bring the administration of justice into disrepute.

When Jesse is in court and ready to resolve their charges, the judge will be advised of what charges Jesse is pleading to. Before Jesse is arraigned on the charges and enters a guilty plea, the Judge, or defence counsel, will make plea inquiry, on the record and ask the following questions:

- Is Jesse entering the plea voluntarily
- Do they accept the facts that will be the basis of the plea
- If they understand the consequences of a plea
- If Jesse understands that regardless of the resolution that has been discussed, the final sentencing decision rests with the Judge.
- Immigration status
- If they hold status/recognize or self-identify with Indigenous, Inuit or Métis Heritage.

The clerk will read the charges. This is called an arraignment. Jesse then enters a plea.

The Crown will read in the facts of the case, and the Judge will ask Jesse if they agree with the facts the Crown has read. Jesse's defence counsel or duty counsel will answer on their behalf and either agree to the facts as alleged or make some minor clarifications. The Crown must agree with these changes, or else the plea will be struck because the Crown and Jesse no longer agree on the facts.

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

CHAPTER NINE SUMMARY

- A guilty plea means Jesse accepts responsibility for what happened and agrees with the facts of the case. This is usually seen as showing remorse and can lead to a lighter sentence than being found guilty after a trial.
- Pleading guilty helps save court time and means victims and witnesses do not have to testify, which judges often see as a positive factor.
- A defence lawyer or duty counsel can help Jesse decide whether to plead guilty and explain the process, usually after talking with the Crown about the charges, facts, and possible sentence.
- Even if the Crown and defence agree on a sentence, the Judge always makes the final decision, though judges usually accept joint agreements.
- Once Jesse pleads guilty and the court accepts it, the Judge officially finds Jesse guilty and moves on to sentencing.

CHAPTER TEN:
The Trial

Trials allow a person accused of an offence to present their case before a Judge and/or a Jury. The right to a fair and just trial is available to every accused.

If Jesse has retained defence counsel, they will represent Jesse at the trial. If Jesse is self-represented, duty counsel cannot assist them with a trial.

If Jesse is charged with a summary conviction offence, either straight summary offences or a hybrid offence, and the Crown elects to proceed by summary conviction, then they must have their trial in the Ontario Court of Justice. Indictable offences are more serious. If Jesse is charged with an indictable offence, they can have their trial either in the Ontario Court of Justice or the Superior Court of Justice. Very serious, straight indictable offences, such as murder, can only be tried in the Superior Court of Justice.

Type of Offence: Court

- **Summary Offence:** Trial would be held in the Ontario Court of Justice
- **Indictable Offence:** Accused can choose between the Ontario Court of Justice or the Superior Court of Justice. An exception is for the most serious indictable offences (e.g. murder), where trial would be held by Judge and Jury.
- **Hybrid Offence:** Trial, if elected by summary conviction, would be held in the Ontario Court of Justice. If elected by indictment, trial could be held in either the Ontario Court of Justice or the Superior Court of Justice by choice of the accused. Offences called "Absolute Jurisdiction Offences" (e.g. Theft under $5,000 and Mischief under $5,000) must be by Judge alone.

Type of Offence: Trial by Judge or Jury

- **Summary Offence:** Judge
- **Indictable Offence:**
    - Ontario Court of Justice: Judge
    - Superior Court of Justice: Judge and Jury
- **Hybrid Offence:**
    - If elected by summary conviction: Judge
    - If elected by indictment, and the trial is at the Ontario Court of Justice: Judge
    - If elected by indictment and the trial is at the Superior Court of Justice: Accused can choose between Judge alone or a Judge and Jury.

Preliminary Inquiry

A preliminary inquiry is held for certain cases when there is an election for a trial by a Superior Court Judge (or Judge and jury) and the maximum penalty is 14 years or more. It can also be called a preliminary hearing.

The inquiry is held in front of a Provincial Court Judge. The judge reviews the evidence requested by the Crown and must decide if there is enough evidence to go to trial. The Crown does not have to prove guilt beyond a reasonable doubt in the preliminary hearing.

If the judge decides there is not enough evidence for a trial, Jesse is discharged. If the judge believes there is enough evidence, Jesse will go to trial. This is called "being committed to stand trial."

Trial with a Defence Counsel

At a trial the Crown must call evidence to prove Jesse's guilt beyond a reasonable doubt. Jesse is not required to prove anything, and they can choose to remain silent and see whether the Crown can prove their case. Jesse 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 includes the following components:

1. Arraignment – pleading not guilty.
2. The Crown presents evidence. This can include witnesses who would be called to testify.
3. Defence counsel can cross-examine each witness. In some cases, the Crown has the limited right to re-examine a witness.
4. The Crown closes its case, and defence counsel is given the opportunity to call "defence evidence."
5. Defence evidence may or may not include calling the accused to testify but can also include other witnesses/evidence. The Crown is then given the opportunity to cross-examine each witness, and in some cases defence counsel has the limited right to re-examine a witness.
6. If defence counsel choses to provide evidence, the Crown may choose to call "rebuttal evidence."
7. After all evidence is presented, closing arguments by both the Crown and defence counsel are made.
8. If the defence chooses not to provide defence evidence, then only the Crown makes a closing argument.
9. Rendering a verdict: The Judge must then be given time to render a verdict or, if it is a jury trial, the 12 elected members of the jury must be given time to render a verdict. This may not happen on the same day as the trial.

10. Once ready, the verdict will be provided by the judge or jury. If acquitted (not guilty), then the trial concludes. If found guilty, then sentencing will occur. This can happen on the same day as the verdict or can be adjourned to a date in the future. If Jesse's sentencing is adjourned, the bail terms remain in place until the sentencing.

Jesse has every right to represent themself at trial, and if they do the Crown and the court will make a concentrated effort to assist them. However, trials can be complicated. Jesse may be at a disadvantage due to not having any legal training. As a result, Jesse should seriously consider hiring a defence counsel, either with their own funds or with Legal Aid (if approved).

CHAPTER TEN SUMMARY

- Everyone has the right to a fair trial. A trial lets someone accused of a crime explain their side of the story to a Judge, and sometimes a jury.
- If Jesse has a lawyer, the lawyer speaks for them at trial. If Jesse represents themself, duty counsel cannot help during the trial.
- Less serious charges (summary offences) are tried in the Ontario Court of Justice. More serious charges (indictable offences) may be tried in the Ontario Court of Justice or the Superior Court of Justice, depending on the charge.
- For very serious crimes like murder, trials must be held in the Superior Court of Justice with a judge and jury.
- Some indictable cases may have a preliminary hearing first, where a judge decides if there is enough evidence for the case to go to trial.
- At trial, the Crown must prove guilt beyond a reasonable doubt. Jesse does not have to prove anything and can choose to stay silent.
- The Crown presents its evidence first, including witnesses, and the defence can question those witnesses and present their own evidence if they choose.
- After all evidence is heard, the judge or jury decides the verdict. If Jesse is found not guilty, the case ends. If they are found guilty, sentencing follows.
- Jesse can represent themself, but trials are complex so it is strongly recommended to have a defence lawyer if possible.

CHAPTER ELEVEN:
The Sentencing

If Jesse is found guilty after a trial, or has pled guilty, the next step is Jesse's sentencing.

Jesse's sentencing can occur immediately after there is a finding of guilt or their case can be adjourned. Common reasons to have the sentencing on a later date include to allow:

- A pre-sentence report to be prepared by a Probation Officer
- A psychiatric assessment to be done
- Jesse to go to counselling or a rehabilitation program
- Jesse to obtain restitution for the victims of the offences
- The Crown to get a Victim Impact Statement from the victim or victims

If Jesse's sentencing is adjourned, then bail terms remain in place until the sentencing is complete.

Prior to Jesse's sentencing both the Crown and Jesse's defence counsel/duty counsel will make submissions to the Court as to what sentence they feel is appropriate. Submissions can include background information about Jesse, and additional, relevant, facts of the case. They may refer to the facts of Jesse's case and compare them to similar cases heard by other Courts. Traditionally, Jesse's defence counsel/duty counsel will go first, followed by the Crown.

Following verbal submissions both the Crown and defence can file any exhibits (items or documents presented to the Court). For the Crown, this can include Jesse's criminal record, any outstanding probation orders, victim impact statements, pre-sentence reports, psychiatric assessments, or anything else the Crown would like the judge to consider. Defence might consider submitting documents such as medical/psychiatric reports, reference letters, counselling reports, letters from community supports, a written apology, or proof of restitution payment.

After hearing from the Crown and defence counsel/duty counsel, and reviewing all the exhibits, the judge will ask Jesse if they have anything to say. Jesse has no obligation to say anything, but if they want to address the Court, this is the time to do so.

The Judge will then decide the appropriate sentence for Jesse. Depending on the charges, there may be minimum sentences that the Court cannot reduce. Examples of such charges include impaired driving offences and certain firearm offences.

Possible sentences include:

Absolute Discharge

- Jesse is found guilty, but no conviction is registered.
- There are no conditions and Jesse's court matter is finished.

Conditional Discharge

- Jesse is found guilty, but no conviction is registered.
- They are given specific conditions/terms to follow, through a probation order, for a specified period of time.
- Jesse will be discharged once the conditions are met.

810 Peace Bond

- Under section 810 of the Criminal Code, this requires sworn information that demonstrates a reasonable fear of personal injury or damage of property. This resolution does not require a guilty plea but includes allegations to be included on the record.
- The maximum duration for this type of peace bond is up to one year. The conditions included on the 810 Peace Bond are based on the specific grounds of fear of harm or damage.
- A breach of conditions could result in a Criminal Code charge.

Common Law Peace Bond

- This peace bond has a broader scope and is not governed by the Criminal Code. It does not require sworn information and can be imposed for an indefinite duration.
- It includes that Jesse could commit a breach of the peace, which does not have to be based on fear of personal injury or violence.
- The conditions of this type of peace bond could be similar to an 810 peace bond and could result in a breach, which is a Criminal Code offence.

Fine

- Jesse is found guilty, convicted, and ordered to pay a monetary penalty.
- A fine can be on its own, or it can be combined with probation or custody.

Probation Order

- Jesse is found guilty and convicted (unless the probation is attached to a conditional discharge).
- Probation is a period of supervision for up to three years. Jesse will have to follow certain terms in the order.
- A probation order can be ordered with a conditional discharge, a suspended sentence, a fine, or a period of custody of two years or less.

Suspended Sentence and Probation

- Jesse is found guilty and convicted. The sentence that the Judge would have imposed is suspended pending a period of probation for up to three years. If Jesse finishes the period of probation without breaching any of the terms the sentence is complete.
- If Jesse breaches a term of their probation they can be charged with the offence of breach of probation, and the Crown can also apply to have the Judge re-sentence them on the original charges as well.

Conditional Sentence

- Jesse is found guilty and convicted. They are sentenced to a period of imprisonment but allowed to serve that custodial sentence in the community, under terms stricter than on a probation order.
- A conditional sentence can last up to two years less a day. Terms may include house arrest and wearing an electronic monitoring anklet. Not all offences are eligible for a conditional sentence.
- During the conditional sentence Jesse will be monitored by a conditional sentence supervisor (probation officer).

Custody/Imprisonment

- Jesse is found guilty and convicted. They are sentenced to a term of imprisonment.
- If the sentence is under two years they will serve their sentence in a provincial reformatory.
- If the sentence is two years or more, they will serve it in a federal penitentiary.
- If the sentence is less than 90 days, the Judge may allow them to serve the sentence intermittently, in which case they serve their sentence on only certain days of the week, usually on weekends.

Restitution

- The court can order Jesse to pay the victim for money lost as the result of Jesse's offence.
- The amount is based on submissions to the court of the victim's financial loss.
- Restitution can be a "stand-alone" order in addition to another sentence, as a condition of a conditional sentence, or as a condition on a probation order.

Victim Surcharge

- The judge must address this surcharge at sentencing. The amount of the victim surcharge is 30% of any fine that is imposed.
- If Jesse did not receive a fine, the surcharge is $100 for each summary offence and $200 for each indictable offence Jesse has been found guilty of.

If Jesse is found guilty of more than one offence, their sentence can be different for each offence. For example, Jesse 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, or consecutive, meaning they run one after the other.

There are certain orders that are also a part of sentencing, depending on the charges that Jesse is found guilty of. These orders can include the following:

- A DNA sample being taken
- A ban on owning weapons and firearms
- Entry onto the sex offender registry
- A ban on attending parks, playgrounds, and schools
- A ban on owning animals
- A ban on driving a motor vehicle

Probation

Community supervision is provided by the Community Correctional Services Division of the Ministry of the Solicitor General. A Probation Officer's role is to supervise individuals who are serving sentences in the community under a court order (conditional discharge, suspended sentence, or conditional sentence).

A probation officer will work with the individual to develop a plan that:

- Provides support
- Meets the individual's goals
- Reduces the likelihood of re-offending
- Monitors compliance of court ordered conditions

In the Waterloo and the Guelph-Wellington regions, Probation Officers can make referrals to the Canadian Mental Health Association Mental Health and Justice Team. In this program, the assigned Support Coordinator assists individuals with the organization of community support for mental health and/or concurrent disorders.

A Note about Criminal Records

A conviction would result in an entry on Jesse's criminal record. For adults, a criminal record includes all criminal findings of guilt and convictions. A Judge will consider previous entries on Jesse's criminal record when they are being sentenced.

Two types of criminal record checks can be requested from police: a national record which is maintained by the RCMP and a local record maintained by regional police service. Criminal record checks are often needed for employment, volunteering, or immigration. A "vulnerable sector check" is the most inclusive record check. In addition to information relating to criminal

convictions across Canada, it will also contain information surrounding previous police contact. This can include interactions where charges were not laid, apprehensions under the Ontario Mental Health Act, or charges that did not result in conviction.

CHAPTER ELEVEN SUMMARY

- After Jesse pleads guilty or is found guilty at trial, the next step is sentencing, which may happen right away or be scheduled for a later date.
- Sentencing may be delayed to gather more information, such as a pre-sentence report, mental health assessment, proof of counselling, restitution payments, or victim impact statements. Bail rules stay in place until sentencing is finished.
- Before sentencing, the defence and the Crown tell the judge what sentence they think is fair and explain Jesse's background and the details of the case.
- The judge may review documents like criminal record, victim statements, reports, reference letters, or proof of treatment before deciding the sentence.
- Jesse may speak in court before sentencing, but they do not have to. The judge then decides the sentence, sometimes following required minimum penalties.
- Possible sentences are: absolute or condition discharge, fines, probation, peace bonds, community-based sentences, or jail time.
    - Jail sentences under two years are served in a provincial jail, while sentences of two years or more are served in a federal prison; very short sentences may be served on weekends and are called intermittent sentences.
- The court may also order restitution to victims and a victim surcharge, which is a mandatory extra fee added to the sentence.
- Additional court orders may be bans on weapons, driving suspension, DNA orders, or placement on registries.
- A conviction creates a criminal record, which can affect jobs, volunteering, or travel and may show up on police record checks, including vulnerable sector checks.

CHAPTER TWELVE:
The Appeal

In some cases, if Jesse feels the court made in error in a finding of guilt, and/or the sentence imposed, they have the right to an appeal. In most cases, an appeal is heard in a higher court.

An appeal can be made for the following:

- Conviction
- Sentence
- Unfit to stand trial verdict
- Finding of not criminally responsible on account of mental disorder (NCR)

The right of appeal allows individuals convicted of indictable or summary offences to appeal the conviction on specific grounds. Both the Crown and the accused can appeal. The Crown can appeal indictable matters only on questions of law. For summary convictions, the Crown can also appeal to factual determinations.

Summary Conviction Appeals

Summary Conviction Appeals are heard by a superior court judge. The accused and the Crown both have the right to appeal. If the accused wants to appeal the decision of the appeal judge, the accused can appeal to the Ontario Court of Appeal. For a Summary Conviction Appeal to make it to the Ontario Court of Appeal, it can only be done on a question of law and requires leave (permission) of the court.

Indictable Conviction Appeals

These appeals are heard by Ontario Court of Appeal. Both the accused and the Crown have the right to appeal the decision of a trial court. A person may appeal against conviction involving a question of law alone; a question of fact; or a question of mixed law and fact, with leave of the court. The Ontario Court of Appeal can only allow an appeal against a conviction if the verdict is unreasonable, an error of law was committed, or there was a miscarriage of justice.

Jesse has the right to represent themself at the Appeal, but appeals are often very technical and based on complex legal arguments. Even if Jesse represented themself at the guilty plea or trial, they may still want to consider retaining a defence counsel to assist with the appeal.

Not all defence counsels have experience with appeals. Even if Jesse was content with the defence counsel that they retained for the guilty plea or trial, they may want to hire a different counsel for the appeal.

Time Limit

Appeals must be filed within 30 days of the date of sentencing. Therefore, Jesse should file a notice of appeal even if they do not have a lawyer for that appeal. If in custody, Jesse will file an inmate notice of appeal, and the court will accept the notice up to six months after the sentence with an explanation.

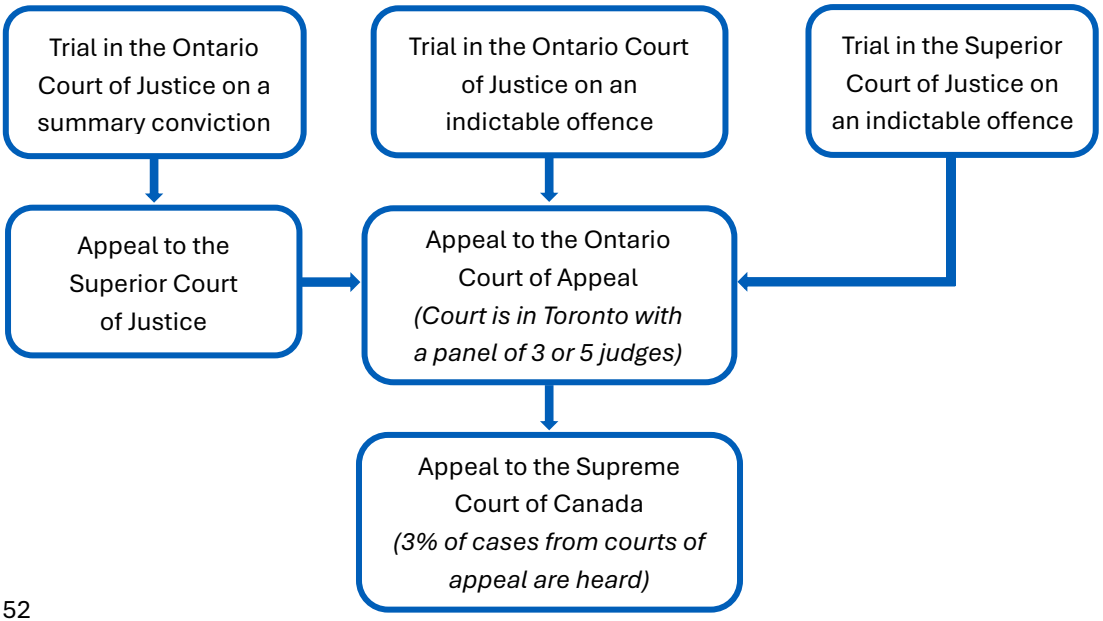
Decisions Made by an Appeal Court

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

- To dismiss the appeal (the trial was properly conducted, and evidence supports the verdict).
- To allow the appeal and order a new trial (the trial was not fairly or properly conducted, the conviction or acquittal may be set aside).
- To allow the appeal and enter an acquittal (the evidence does not support the conviction).
- To allow the appeal and enter a guilty verdict (this happens very rarely, and if it occurs in the Ontario Court of Appeal Jesse has the automatic right to appeal to the Supreme Court).
- To allow the appeal and vary the sentence (the sentence could be varied by increasing or lowering it).

For an indictable offence, if an unreasonable verdict is found, the appeal court will enter an acquittal and could order a new trial if there is a legal error or a miscarriage of justice.

The Appeal Process



CHAPTER TWELVE SUMMARY

- Jesse can appeal if they think the court made a mistake about guilt, the sentence, fitness to stand trial, or an NCR decision.
- An appeal asks a higher court to review the case, and both Jesse and the Crown can appeal, though the Crown has fewer options.
- Summary offence appeals and indictable offence appeals go to different higher courts, depending on the type of charge.
- Appeals focus on legal mistakes, unfair trials, or unreasonable decisions, and not on presenting all the evidence.
- Appeals are complex, so even though Jesse can represent themself it is strongly recommended to hire a lawyer with appeal experience.
- A notice of appeal usually must be filed within 30 days of sentencing, even if Jesse does not yet have a lawyer.

CHAPTER THIRTEEN: Resources

Justice System Resources

CROWN ATTORNEY'S OFFICE (PROVINCIAL)

Guelph Office

Address: 74 Woolwich Street, Guelph, ON N1H 6J2
Phone: 519-822-1031
Email: virtualCrownGuelph@ontario.ca

Waterloo Office

Address: 85 Frederick Street, 3rd Floor, Kitchener, ON N2H 0A7
Phone: 519-741-3222
Email: CLD.West.Kitchener@ontario.ca

FEDERAL DEPARTMENT OF PUBLIC PROSECUTIONS (FEDERAL CROWN)

Guelph Office

Address: 74 Woolwich Street, Guelph, Ontario N1H 3T9
Email: PPSCAgentServiceSPPC@ppsc-sppc.gc.ca

Kitchener Office

Address: 15 Duke Street East, Suite 202, Kitchener, ON N2H 1A2
Email: PPSCKitchenerSPPC@ppsc-sppc.gc.ca

FORENSIC HOSPITALS

Brockville Mental Health Centre – Member of the Royal Ottawa Healthcare Group

Address: 1804 Highway 2 East, Brockville, ON K6V 5V8
Phone: 613-345-1461

Centre for Addiction and Mental Health (CAMH)

Address: 1001 Queen Street West, Toronto, ON M6J 1H4
Phone: 416-535-8501

North Bay Regional Health Centre

Address: 50 College Drive, North Bay, ON P1B 5A4
Phone: 705-474-8600

Ontario Shores Centre for Mental Health Services

Address: 700 Gordon Street, Whitby, ON L1N 5S9
Phone: 905-430-4055

Providence Care Centre – Mental Health Services Sites

Address: 752 King Street West, Kingston, ON K7L 4X3

Phone: 613-544-4900

Royal Ottawa Mental Health Centre

Address: 1145 Carling Avenue, Ottawa, ON K1Z 7K4

Phone: 613-722-6521

TTY: 613-722-3355

Southwest Centre for Forensic Mental Health

Address: 401 Sunset Drive, St. Thomas, ON N5R 3C6

Phone: 519-646-6100 ext 49354

St Joseph's Healthcare Hamilton – West 5th Campus

Address: 100 West 5th Street, Hamilton, ON L9C 0E3

Phone: 905-522-1155

Thunder Bay Regional Health Sciences Centre

Address: 900 Oliver Road, Thunder Bay, ON P7B 6V4

Phone: 807-684-6000

Waypoint Centre for Mental Health

Address: 500 Church Street, Penetanguishene, ON L9M 1G3

Phone: 705-549-3181

GUELPH POLICE SERVICES

Guelph Police Services – Headquarters

Address: 15 Wyndham Street South, Guelph, ON N1H 4C6

Phone: Non-emergency: 519-824-1212 or 519-829-4460

TTY: 1-866-513-8062

Victim Services

Address: 15 Wyndham Street South, Guelph, ON N1H 4C6

Phone: 519-824-1212 ext 7304

Accident Reporting Centre

Address: 160 Clair Road West, Guelph, ON N1L 1G1

Phone: 519-829-4444

HEALING OF THE SEVEN GENERATIONS DEHSAHSODRE BAIL RELEASE AND SUPERVISION

Address: 300 Frederick Street, Kitchener, ON N2H 2N5

Phone: 519-570-9118

Website: Healingofthesevengenerations.ca/programs/dehsahsodre-legal-services

About: Offering alternative and culturally informed bail release programming for individuals to remain in their home communities. Supports First Nation, Inuit and Métis Peoples who are candidates for release from custody, but do not have a suitable surety. This program is available in the Kitchener Waterloo and Guelph Wellington communities.

JOHN HOWARD SOCIETY (GUELPH BAIL SUPERVISION)

Address: 36 Wyndham Street South, Guelph ON, N1H 7J5 (Guelph Court House)

Email: guelphbailprogram@jhsww.ca

About: Bail program in the Guelph-Wellington Region. Supports individuals over the age of 16 who are candidates for release from custody but do not have a suitable surety available and have a condition to participate in bail supervision.

LEGAL AID ONTARIO

Guelph Office

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

Kitchener Office

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

All Locations

Phone: 1-800-668-8258

Website: www.legalaid.on.ca

About: A government agency providing financial assistance for legal representation to eligible individuals.

ONTARIO COURT OF JUSTICE – COURTHOUSE LOCATIONS

Guelph-Wellington

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

Phone: 519-837-6366

Waterloo Region

Address: 85 Frederick Street, Kitchener, ON N2H 0A7

Phone: 519-741-3300

ONTARIO COURT OF JUSTICE – CRIMINAL COURT OFFICE

Guelph-Wellington

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

Phone: 519-836-2501

Phone: Fingerprinting & Identification: 519-824-1212

Waterloo Region

Address: 85 Frederick Street, Kitchener, ON N2H 0A7

Phone: 519-741-3300

Phone: Fingerprinting & Identification: 519-650-8500 ext 5530

ONTARIO MINISTRY OF THE ATTORNEY GENERAL

Phone: 1-877-425-0575

ONTARIO PROVINCIAL ADULT CORRECTIONAL FACILITIES

Maplehurst Detention Centre

Address: 662 Martin Street, Milton, ON L9T 2Y3

Phone: 905-878-8140

Ontario Correctional Institute

Address: 109 McLaughlin Road South, Brampton, ON L6Y 2C8

Phone: 905-457-7050

Vanier Centre for Women

Address: 655 Martin Street, Milton, ON L9T 5E6

Phone: 905-876-8300

St. Lawrence Valley Correctional and Treatment Centre

Address: 1804 Highway 2 East, Brockville, ON K6V 5T1

Phone: 613-341-2870

About: A psychiatric hospital connected to the jail in Brockville Ontario. Male offenders serving sentences of less than two years with significant mental health concerns may be transferred here by the Ministry of Community Safety and Correctional Services for treatment.

All Other Facilities Across Ontario

Website: ontario.ca/page/correctional-facilities

ONTARIO PROVINCIAL POLICE (OPP)

Cambridge Detachment

Address: 1360 Hespeler Road, Cambridge, ON N3C 2V3

Phone: 519-654-0150

Fergus – Centre Wellington Operations Centre

Address: 371 Charles Allan Way, Fergus, ON N1M 2W3

Phone: 519-846-5930

Rockwood – South Wellington Operations Centre

Address: 5145 Wellington Road 27, Rockwood, ON N0B 2K0

Phone: 519-856-1506

Teviotdale – North Wellington Operations Centre

Address: 6725 Wellington County Road 109, Palmerston, ON N0G 2P0

Phone: 519-343-5770

All Locations

Phone: 24-hour Communication Centre, Non-Emergency: 1-888-310-1122

Website: opp.ca

ONTARIO SUPERIOR COURT OF JUSTICE – CRIMINAL COURT OFFICE

Guelph-Wellington

Address: 74 Woolwich Street, Guelph, ON N1H 3T9
Phone: 519-822-7961
Email: Guelph.Courthouse@ontario.ca

Waterloo Region

Address: 85 Frederick Street, 2nd Floor, Kitchener, ON N2H 0A7
Phone: 519-741-3300
Email: Kitchener.Superior.Court@ontario.ca

PROBATION AND PAROLE SERVICES

Guelph Wellington

Address: 75 Farquhar Street, 2nd Floor, Guelph, ON N1H 3N4
Phone: 519-837-6306

Waterloo Region - Cambridge

Address: 150 Main Street, Unit #401, Cambridge, ON N1R 6P9
Phone: 519-740-5966

Waterloo Region – Kitchener Waterloo (Centre)

Address: 1780 King Street East, Unit 5, Kitchener, ON N2G 2P1
Phone: 519-571-6105

Waterloo Region – Kitchener Waterloo (West)

Address: 73 King Street West, 2nd Floor, Kitchener, ON N2G 1A7
Phone: 519-571-7250

PROVINCIAL OFFENCE COURT

Guelph-Wellington

Address: 59 Carden Street, Guelph, ON N1H 2Z9
Phone: 519-826-0762

Waterloo Region

Address: 77 Queen Street North, Kitchener, ON N2H 2H1
Phone: 519-745-9446

PUBLIC SAFETY CANADA

Phone: 1-800-830-3118
TTY: 1-866-865-5667

VICTIM SUPPORT DIRECTORY AND SUPPORT LINE

Phone: 416-314-2447
Website: victimsupportdirectory.ca
About: Available 24/7. Provides information for victims of crime about services available throughout Ontario.

VICTIM/WITNESS ASSISTANCE PROGRAM

Phone: 416-314-2447

Website: ontario.ca/page/victimwitness-assistance-program

About: A court-based program that provides information and support to victims and witnesses of crime. Services are provided to victims and witnesses of the following types of cases: homicide, human trafficking, intimate partner violence, child abuse, sexual assault, elder abuse, hate crimes, motor vehicle fatality resulting in criminal charges, other violent crimes involving a victim with a disability. Available to Ontario residents.

WATERLOO REGIONAL POLICE SERVICES

Headquarters - Cambridge

Address: 200 Maplegrove Road, Cambridge, ON N3H 5M1

Website: wrps.on.ca

Central Division - Kitchener

Address: 200 Frederick Street, Kitchener, ON N2G 4G3

South Division - Cambridge

Address: 176 Hespeler Road, Cambridge, ON N1R 6V7

North Division - Waterloo

Address: 45 Columbia Street East, Waterloo, ON N2J 4N7

Non-Emergency: Kitchener, Waterloo, and Cambridge Divisions

Phone: 519-570-9777

TTY: 1-888-420-1777

Victim Services and Early Intervention Team

Address: 400 Queen Street South, Kitchener, ON N2G 1W7

Phone: 519-579-9668

Accident Reporting Centre

Address: 150 Maple Grove Road, Cambridge, ON N3H 4R7

Phone: 519-650-8500 ext. 8786

YOUTH IN CONFLICT WITH THE LAW (BAIL SUPERVISION)

Cambridge Office

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

Phone: 519-745-6591 ext. 226

Kitchener Waterloo Office

Address: 79 Weber Street East, Kitchener, N2H 1C6

Phone: 519-745-6591 ext 100

Waterloo Office

Address: 85 Frederick Street, Kitchener, ON N2H 0A7

Phone: 519-741-3300

All Locations

Email: info@waterloobailprogram.ca

About: Bail program for the Waterloo Region. Used when an individual is released from custody or on a Judicial Interim Release Order with a condition that includes participation in bail supervision. Bail supervision remains in effect until all orders requiring bail are terminated.

Community Resources

9-8-8

Phone: 9-8-8

Text: 9-8-8

Website: 988.ca

About: National suicide crisis helpline. Operates 24/7.

ANISHNABEG OUTREACH

Guelph

Address: 400 Stevenson Street North, Guelph, ON N1E 5C3

Phone: 519-763-5292

Kitchener

Address: 236 Woodhaven Road, Kitchener, ON N2C 1V5

Phone: 519-208-5333

All Locations

Website: aocan.org

About: Serves the urban First Nation, Inuit, and Métis (FNIM) population. Takes a healing centered approach to service delivery to meet the diverse needs of FNIM people, and to overcome the barriers that are structurally embedded into society. Offers AONest which is a self-guided online software system to support and teach strategies for navigating mental health concerns. Available 24/7. Additionally offers reconciliation services, and other community programs to both the Guelph-Wellington and Waterloo Regions.

CANADIAN MENTAL HEALTH ASSOCIATION WATERLOO WELLINGTON (CMHA WW)

Guelph-Wellington

Address: 9 Wellington Street, Suite 3, Cambridge, ON N1R 3Y4

Guelph

Address: 80 Waterloo Avenue, Guelph, ON N1H 0A1

Guelph – Children & Youth Services (Head Office)

Address: 737 Woolwich Street, Guelph, ON N1H 3Z2

Fergus

Address: 234 St Patrick Street East, Fergus, ON N1M 1M6

Kitchener

Address: 55 King Street West, 2nd Floor, Kitchener, ON N2G 4W1

Mount Forest

Address: 5 – 392 Main Street North, Mt. Forest, ON N0B 2L2

All Locations

Phone: 1-8444-264-2993

Website: cmhaww.ca

About: Provides a full care system for those with substance use or mental health needs. Offers a variety of community-based programs and supports across the Waterloo and Guelph-Wellington Regions.

CAMINO WELLBEING + MENTAL HEALTH

Baden Location

Address: 3601 Sandhills Road, Baden, ON N3A 3B9

Cambridge Location

Address: 150 Ainslie Street North, Cambridge, ON N1R 3P5

Kitchener Locations

Address: 400 Queen Street South, Kitchener, ON N2G 1W7

Address: 645 Westmount Road East, Kitchener, ON N2E 3S3

Address: 480 Charles Street East, Kitchener, ON N2G 45K

Waterloo Location

Address: 231 Herbert Street, Waterloo, ON N2J 1V1

All Locations

Phone: 519-743-6333

Email: info@caminowellbeing.ca

Website: caminowellbeing.ca

About: Professional and caring counselling that includes individual counselling (sliding scale), and quick response drop-in counselling. Camino also offers support for immigrants and refugees, 2SLGBTQIA+ individuals, and for relationships and survivors of abuse. Supports are available to residents of the Region of Waterloo.

COMPASS COMMUNITY SUPPORT SERVICES

Address: 20 Shelldale Crescent, Guelph, ON N1H 1C8

Phone: 519-824-2431

Phone: 519-821-3760 Distress line, operates Monday – Friday 8 AM – 10 PM

Website: compasscs.org

About: Provides mental health and social services to individuals, families, and children. Services include walk-in counselling, developmental services, a distress line, Seniors Offering Support, Teleconnect Line, and Employee Assistance Programming. Available for residents of Guelph-Wellington

COMMUNITY ACCESS MIDWIFERY PROGRAM (CAMP):

Address:	176 Wyndham Street North, Guelph, ON N1H 8N9
Phone:	519-821-6638 ext 5
Website:	guelphchc.ca/camp
About:	Programming is offered through the Guelph Community Health Centre. Program offers reproductive supports to those experiencing barriers to health.

COMMUNITY HEALTHCARING KW

Address:	44 Francis Street South, Kitchener, ON N2G 2A2
Phone:	519-745-4404
Website:	healthcaringkw.org
About:	Provides primary health care and works with individuals to support health and wellness goals. A multidisciplinary team including physicians, nurse practitioners, nurses, social workers, outreach workers to offer comprehensive health care to vulnerable populations. Supports also include immigrant and refugee health support. Waterloo Region only.

COMMUNITY JUSTICE INITIATIVES

Address:	85 Edwin Street, Kitchener, ON N2H 4N7
Phone:	519-744-6549
Website:	cjiwr.com
About:	Offering mediation and dialogue for those impacted by crime and sexual harm.

COMMUNITY RESOURCE CENTRE

Address:	900 Tower Street, Fergus, ON N1M 3N7
Phone:	519-843-7000
Website:	communityresourcecentre.org
About:	Offers community outreach programs to support low-income individuals who reside in Wellington. Programming includes outreach support, transportation, and income and tax services.

COMMUNITY WITHDRAWAL SUPPORT SERVICES (CWSS)

Address:	60 Westmount Road, Guelph, ON N1X 3X7
Phone:	1-844-722-2977
Website:	Stonehengetc.com/our-programs/addiction-medicine-withdrawal/withdrawl-support-service/
About:	Services that offer an alternative to residential withdrawal management for individuals who can safely withdraw in a community environment.

CONNEX ONTARIO

Phone:	1-866-531-2600
Text:	Text CONNEX to 247247
Website:	connexontario.ca
About:	Database for Ontario mental health, addictions, and gambling support services, operates 24/7.

CROW SHIELD LODGE

Address:	101 David Street, Kitchener, ON N2G 1Y1
Phone:	226-220-9242
Email:	wachay@crowshieldlodge.ca
Website:	crowshieldlodge.com
About:	Offers Indigenous land-based healing and cultural education. Some services include cultural learning workshops, sharing circles for men, women and front-line workers, land stewardship teachings, cultural ceremonies and sweats, and cultural art and craft workshops. Crow Shield is guided by the seven grandfather teachings and operates on the following pillars: education, healing, reconciliation, and land stewardship**.** These services are available to all nations. Currently There are locations in Waterloo Region, New Hamburg, St. Clements, and will be available in Guelph-Wellington in 2026.

EAST WELLINGTON COMMUNITY SERVICES

Erin

Address:	45 Main Street, Erin, ON N0B 1T0
Phone:	519-833-9696

Rockwood

Address:	143 Dennis Street, Unit B, Rockwood, ON N0B 2K0
Phone:	519-856-2113

All Locations

Website:	eastwellingtoncommunityservices.com
About:	Provides services and supports rural Wellington. Services include food banks, transportation, and community outreach.

FIRST CONNECT

Phone:	519-749-1450 Youth Aged 16-25 519-624-9133 18+ 519-749-2450 Families 8:30 Monday - Friday AM – 4:30 PM
Website:	regionofwaterloo.ca/en/living-here/emergency-shelters-and-transitional-housing.aspx
About:	Access point for emergency shelter in the Waterloo Region.

GUELPH COMMUNITY HEALTH CENTRE

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

Phone: 519-821-6638

Website: guelphchc.ca/

About: Serves equity deserving groups who reside in Guelph and works towards breaking down barriers to health and wellbeing. Offers a multitude of services which include healthcare, gender affirming care, drop in counselling, outreach services, and substance support services.

HART HUB GUELPH WELLINGTON – COMMUNITY REFERRAL CONTACTS

Guelph Community Health Centre

Phone: 519-821-6638 ext 3

Here24/7

Phone: 1-844-437-3247

Wyndham House – Youth Aged 16-24

Phone: 519-822-2768

All Locations

Website: guelphchc.ca/gwharthub/

About: Homelessness and Addictions Recovery Treatment (HART) Hub is a regional network of care teams that work to provide housing, treatment, and care to individuals with the most complex needs in the community. HART HUB uses a one-team approach involving multiple organizations. Some supports that are offered include primary care, counselling, crisis care, and naloxone distribution.

HART HUB WATERLOO REGION

Health Caring KW

Address: 44 Francis Street South, Kitchener, ON N2G 2A2

Ray of Hope

Address: 659 King Street East, Kitchener, ON N2G 2M4

Region of Waterloo

Address: 150 Main Street, Cambridge, ON N1R 6P9

All Locations

Phone: 519-745-4404 ext 213

Email: harthubinfo@healthcaringkw.org

Website: healthcaringkw.org/hart-hub-waterloo-region

About: Homelessness and Addictions Recovery Treatment (HART) Hub is a regional network of care teams that work to provide housing, treatment, and care to individuals with the most complex needs in the community. HART HUB uses a one-team approach involving multiple organizations. Some supports that are offered include primary care, counselling, crisis care, and naloxone distribution.

HERE24/7

Phone: 1-844-437-3247

Website: here247.ca

About: Here 24/7 is your access point for addictions, mental health, and crisis services across Waterloo, Wellington, and Dufferin. They handle intake, assessment, referral, crisis, waitlist, and appointment booking for 12 partner agencies. Their goal is to guide you through the process, so you can focus on maintaining hope and pursuing recovery.

HIVE HEALTH SERVICES

Guelph Wellington

Address: 77 Westmount Road Unit 110, Guelph, ON N1H 5J1

Waterloo Region

Address: 1770 King Street East, Unit 5, Kitchener, ON N2G 2P1

All Locations

Phone: 519-780-5298 ext 7

Website: guelphchc.ca/hivehealthservices

About: Provided through the Guelph Community Health Centre, this program offers HIV health care and wrap around support, as well as gender-affirming care. Supports individuals in both the Guelph-Wellington and Waterloo Region.

HOSPITALS

Cambridge Memorial Hospital

Address: 700 Coronation Boulevard, Cambridge, ON N1R 3G2

Phone: 519-621-2330

Website: cmh.org

Groves Memorial Hospital

Address: 131 Frederick Campbell Street, Fergus, ON N1M 0H3

Phone: 519-843-2010

Website: gmch.whca.ca

Guelph General Hospital

Address: 115 Delhi Street, Guelph, ON N1E 4J4

Phone: 519-822-5350

Website: gghorg.ca

Louise Marshall Hospital

Address: 630 Dublin Street, Mt. Forest, ON N0G 2L3

Phone: 519-323-2210

Website: nwhc.whca.ca

Palmerston District Hospital

Address: 500 Whites Road, Palmerston, ON N0G 2P0
Phone: 519-343-2030
Website: nwhc.whca.ca

Waterloo Regional Health Network - Chicopee

Address: 3580 King Street East, Kitchener, ON N2A 2W1
Phone: 519-742-3611
Website: wrhn.ca

Waterloo Regional Health Network - Midtown

Address: 835 King Street West, Kitchener, ON N2G 1G3
Phone: 519-742-3611
Website: wrhn.ca

Waterloo Regional Health Network – Queen's Blvd

Address: 911 Queens Boulevard, Kitchener, ON N2M 1B2
Phone: 519-744-3311
Website: wrhn.ca

HOUSE OF FRIENDSHIP

Address: 236 Victoria Street North, Suite 3A, Kitchener, ON N2H 5C8
Phone: 519-742-8327
Website: houseoffriendship.org
About: Provides food, housing, addiction treatment, and harm reduction support that support both individuals and families in the Waterloo Region

IMMIGRANT SERVICES GUELPH-WELLINGTON

Address: 104 Dawson Road, Unit 102 Guelph, ON N1H 1A6
Phone: 519-836-2222
Website: is-gw.ca
About: Supports newcomers to Canada who reside in Guelph-Wellington to integrate into communities. Supports include employment, English conversation practice, online classes, and translation and interpretation.

JOHN HOWARD SOCIETY WATERLOO WELLINGTON

Main Office

Address: 310 Charles Street East, Kitchener, ON N2G 2P9
Phone: 519-743-6071
Email: inquiries@jhsww.ca

Cambridge Office

Address: 40 Ainslie Street South, Cambridge, ON N1R 3K1
Phone: 519-622-0815
Email: ccc@jhsww.ca
Website: cambridgecareerconnections.ca

Guelph Office

Address: 85 Westmount Road, Guelph, ON N1H 5J2

Phone: 226-971-1833

All Locations

Website: waterloo.johnhoward.on.ca

About: Offers programs and services that help those affected by the justice system that support in developing life skills and build productive futures. Services available for residents of the Waterloo and Guelph-Wellington region.

KINBRIDGE COMMUNITY ASSOCIATION

Address: 200 Christopher Drive, Cambridge, ON N1R 4S4

Phone: 519-624-3855

Website: kinbridge.ca

About: Offers the Cambridge Newcomer Outreach Program that supports newcomers to Cambridge and offers opportunities to engage in community support. Supports include skill development, employment support, support groups, and recreation.

LANGS – COMMUNITY HEALTH CENTRE

Address: 1145 Concession Road, Cambridge, ON N3H 4L5

Phone: 519-653-1470

Website: langs.org/community-health-centre

About: A community hub model that incorporates services to address the social determinants of health. Offers a multitude of service options including nursing, physicians, social workers, outreach workers, and registered dieticians. Available to residents of Cambridge and North Dumfries.

LEGAL CLINIC OF GUELPH AND WELLINGTON COUNTY

Address: 176 Wyndham Street South, Unit 5, Guelph, ON N1H 8N9

Phone: 519-821-2100 or toll free 1-800628-9205

Website: gwlegalclinic.ca

About: Provides free legal advice to individuals who are low income. Can help with employment, housing, human rights, income assistance, and notary and commission.

ONEROOF

Address: 35 Sheldon Avenue North, Kitchener, ON N2H 3M1

Phone: 519-742-2788
519-741-6415 Drop In Phone

Email: info@oneroof.org

Website: oneroof.org

About: Provides safety, and support to youth who are experiencing or at risk of homelessness, ages 12-25 in the Waterloo Region.

ONTARIO DISABILITY SUPPORT PROGRAM (ODSP)

Guelph Wellington

Address: 1 Stone Road West, 1St Floor, Guelph, ON N1G 4Y2

Phone: 519-822-1561

Waterloo Region

Address: 715 Fischer Hallman Road, Unit 301, Kitchener, ON N2E 4E9

Phone: 519-886-4700

All Locations

Website: ontario.ca/page/ontario-disability-support-program

About: Offers financial support to individuals with a disability that meet the criteria under the "Ontario Disability Support Act" . Can apply in person or online.

ONTARIO HEALTH AT HOME

Phone: 310-2222 (no area code required)

Website: ontariohealthathome.ca

About: A single organization coordinating home and community care, long-term care placement, and support in locating resources within the community to residents of both Waterloo and Guelph-Wellington regions.

ONTARIO WORKS

Cambridge

Address: 150 Main Street, Cambridge, ON N1R 6P9

Phone: 519-883-2100

Fergus

Address: 321 St. Andrews Street West, Fergus, ON N1M 1P1

Phone: 519-837-2670

Guelph

Address: 129 Wyndham Street North, Guelph, ON N1H 4E9

Phone: 519-837-2670

Kitchener

Address: 20 Weber Street East, Kitchener, ON N2H 1C3

Phone: 519-883-2100

Waterloo

Address: 99 Regina Street South, Waterloo, ON N2J 4V3

Phone: 519-883-2100

All Locations

Website: ontario.ca/page/ontario-works

About: For those in need of income, food, and housing support and are in financial need. Can be applied for online. Available for residents of Ontario.

PORCHLIGHT COUNSELLING AND ADDICTION SERVICES

Address: 1315 Bishop Street North Unit 203, Cambridge, ON N1R 6Z2
Phone: 519-621-5090
Website: fcccnd.com
About: Available for Cambridge and North Dumfries residents. Offers one on one counselling with an equitable fee structure, and addiction services.

RAPID ACCESS ADDICTION MEDICINE CLINIC

Guelph Wellington

Phone: 1-844-722-2977

Waterloo Region

Phone: 519-957-5000

All Locations

Address: raamww.ca
About: Specialist medical clinics for people who are experiencing health concerns relating to substance use. Offered in both the Waterloo Region and Guelph Wellington. Services are also offered online through the "Digital Front Door" service.

RECEPTION HOUSE

Address: 700-101 Frederick Street, Kitchener, ON N2H 6R2
Phone: 519-743-0445
Website: receptionhouse.ca
About: Supports refugees and newcomers to Canada in the Waterloo region, aimed to support resettlement and integration into community. Offers a variety of services including employment support, temporary accommodation, and housing, and health and well-being support.

RURAL WELLINGTON ADDICTION SERVICES

Address: 60 Westwood Road, Guelph, ON N1H 7X3
Phone: 519-803-5873
Website: stonehengetc.com/our-programs/addiction-medicine-withdrawal/rural-wellington-addiction-services-rwas
About: Working in partnership with the Upper Grand Family Health Team to provide low barrier support to those living with substance use concerns.

SALVATION ARMY – COURT SUPPORT

Address: 75 Tillsley Drive, Kitchener, ON N2E 3T1
Phone: 519-745-3351
Website: salvationarmyjustice.ca
About: Works with individuals who are justice involved to offer programming aimed at reducing criminal involvement. Programs include: anger management, anger and relationships, theft intervention, alcohol and drug awareness, positive parenting, and road rage. Available for residents of the Waterloo Region.

SELF HELP AND PEER SUPPORT

Phone:	1-844-264-2993
Website:	cmhaww.ca/services/self-help-peer-support
About:	Supports provided through Canadian Mental Health Association Waterloo Wellington (CMHA WW) by individuals with lived experience in mental health and/or substance use. Support individuals with mental health and/or substance concerns. Monthly calendar is available online.

SEXUAL ASSAULT SUPPORT CENTRE OF WATERLOO REGION

Address:	300-151 Frederick Street, Kitchener, ON N2H 2M2
Phone:	519-571-0121 519-741-8633 Support Line
Website:	sascwr.org
About:	Supports those who have faced gender-based violence and/or sexual violence in the Waterloo Region. Some supports offered include a 24-hour support line, counselling, and advocate services for individuals navigating court, police, and medical processes. SASC also has an anti-human trafficking program.

SOUTHWEST ONTARIO ABORIGINAL HEALTH ACCESS CENTRE

Address:	745 Coronation Boulevard, Unit #102, Cambridge, ON N1R 7R1
Phone:	225-476-3672
Website:	soahac.on.ca
About:	Provides wholistic health and wellness Service to Southwestern Ontario. Blending both Indigenous Teaching with western health practices to provide care. Offers mental health and addiction, primary care, dental care, and traditional healing services.

SPECIALIZED OUTREACH SERVICES

Address:	58 Queen Street South, Kitchener, ON N2G 1V6
Email:	genmail@theworkingcentre.org
Website:	theworkingcentre.org/projects/specialized-outreach
About:	A mobile multidisciplinary team that supports individuals who are experiencing homelessness or are precariously housed, who are also experiencing mental health or substance concerns. Provides low barrier support for individuals who have difficulty accessing traditional supports. Available for residents of Waterloo Region.

SPECTRUM

Address:	283 Duke Street West, Unit 210, Kitchener, ON N2H 3X7
Phone:	226-779-9695
Website:	ourspectrum.com
About:	Offers an inclusive space for the 2SLGBTQIA+ and community. A wide range of programs are available include peer support and discussion groups, transgender groups, groups for older adults, and family resources. Available for individuals who reside in the Waterloo Region.

STARLING COMMUNITY SERVICES

Cambridge

Address: 35 Dickson Street, Cambridge, ON N1R 7A6
Phone: 519-749-2450

Guelph

Address: 89 Wyndham Street North, 3rd Floor, Guelph, ON N1H 4E9
Phone: 519-822-4141

Kitchener

Address: 165 King Street East, Kitchener, ON N2G 2K8
Phone: 519-743-2460

Kitchener

Address: 41 Weber Street West, Kitchener, ON N2H 3Z1
Phone: 519-743-2460

Kitchener

Address: 67 King Street East, Kitchener, ON N2G 2K4
Phone: 519-743-2460

All Sites

Website: starlingcs.ca
About: Provides mental health, employment, and housing services in both the Waterloo and Guelph-Wellington regions.

STEPPING STONE

Address: 23 Gordon Street, Guelph, ON N1H 4G9
Phone: 519-837-0080
Website: steppingstonegw.com
About: Supporting residents of Guelph-Wellington who are aged 25+ in housing stability. Offers housing focused services which include emergency drop-in shelter, community outreach, and care coordination. To access the drop-in shelter, attend 23 Gordon after 8 pm.

STONEHENGE THERAPEUTIC COMMUNITY

Address: 60 Westwood Road, Guelph, ON N1H 7X3
Phone: 519-837-1470
Website: stonehengetc.com
About: Specialized addictions service agency which provides services based on four pillars. These include addiction medicine and withdrawal, supportive housing, integrated support and justice, and residential services.

THE HEALING OF THE SEVEN GENERATIONS

Address:	300 Frederick Street, Kitchener, ON N2H 2N5
Phone:	519-570-9118
Website:	healingofthesevengenerations.ca
About:	Community service that offers a wide range of support for those suffering from the inter-generational legacy of the residential school system, sixties scoop and disconnection. Programming includes a women's healing circle, men's healing circles, food supports, backpack programming, Christmas gift programming, seniors supports, cultural craft workshops and court support. Also offered are onsite medical clinic and status application workshops.

THE WORKING CENTRE

Address:	58 Queen Street South, Kitchener, ON N2G 1V6
Phone:	519-743-1151
Website:	theworkingcentre.org
About:	Works to cultivate a web of community supports for residents of the Waterloo Region. Offers a multitude of supports surrounding affordable housing, food security, emergency shelter, refuge/newcomer housing, employment support, outreach, and drop in spaces.

THRESHOLDS HOME AND SUPPORTS

Address:	236 Victoria street North, Kitchener, ON N2H 5C8
Phone:	519-742-3191
Website:	thresholdssupports.ca
About:	Works in both the Waterloo and Guelph Wellington regions to provide affordable housing and flexible services to individuals with mental health conditions.

TRAVERSE INDEPENDENCE

Address:	1382 Weber St E, Kitchener, ON N2A 1C4
Phone:	519-741-5845
Website:	traverseindependence.ca
About:	Supports individuals in Waterloo and Guelph-Wellington regions with a permanent disability, diagnosed brain injury, or a positive HELPS screener.

WATERLOO REGION COMMUNITY LEGAL SERVICES

Address:	401 Frederick Street, Unit 101, Kitchener ON N2H 2P5
Phone:	519-743-0254
Website:	wrcls.ca
About:	Free legal services for low income residents of the Waterloo Region. Areas of law include: tenancy, employment, workplace sexual harassment, ODSP appeals, Ontario Works, Canada Pension Plan, Consumer protection, immigration law, notarization and commissioning of documents, name and gender marker changes, Indigenous justice (Gladue).

WELCOME STREETS GUELPH

Address:	23 Gordon Street, Guelph, ON N1H 4G9
Phone:	519-838-6737
Website:	guelphchc.ca/welcoming-streets
About:	Supports in increasing safety to downtown Guelph. Offers outreach support to liaise between business owners, to respond to situations that do not require police, and engaging with individuals to connect them with the services they need.

WITHDRAWAL MANAGEMENT

Address:	52 Glasgow Street, Guelph, ON N2G 2G7
Phone:	519-749-4318
Website:	wrhn.ca
About:	The closest withdrawal management service is located in Kitchener. Available to those ages 16 and over, and offers 24-hour monitoring and non-medical management of withdrawal symptoms in a structured setting. Available for residents in both the Waterloo and Guelph-Wellington Region.

WOMEN IN CRISIS – GUELPH WELLINGTON

Address:	38 Elizabeth Street, Guelph, ON N1E 2X2
Phone:	519-836-1979 Guelph 519-823-5806 Wellington 519-836-5710 24 hour Crisis Line
Website:	gwwomenincrisis.org
About:	Provides safety, support, and advocacy to residents of Guelph-Wellington who have been impacted by violence. Supports women and gender diverse people and their children. Programming includes emergency shelter, transitional housing, anti-human trafficking, family court support, and a 24 hour crisis line.

WOMEN IN CRISIS – WATERLOO REGION

Phone:	519-742-5894 or 519-653-2422
Website:	wcswr.org
About:	Operates two emergency shelter locations for individuals facing gender-based violence. Additionally, this service provides transitional housing options, outreach services, and a 24-hour support and resource line.

WYNDHAM HOUSE

Address:	300-77 Westmount Road, Guelph, ON N1H 5J1
Phone:	519-822-4400 Emergency Shelter Access: Business Hours: 226-962-3574 Evening & Weekend: 519-837-3892
Website:	wyndhamhouse.org
About:	Works to address youth homelessness in Guelph. Services are available for youth in Guelph ages 16-25 and include supportive housing, emergency shelter, a concurrent youth hub, and education and community partnerships.

APPENDIX A:
Glossary of Terms

A

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

Accused: If Jesse is charged with a criminal offence, but is not yet found guilty or acquitted, they are called an accused. Once found guilty, Jesse is called an offender.

Adjournment: Delay of a case for various reasons, including allowing Jesse to seek counsel, review the case against them, or to attend for counselling. Adjournments can be sought by either Jesse or the Crown, and the Justice of the Peace/Judge 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. It resembles a traffic ticket and will tell Jesse when and where they must appear in court and when and where they must appear to be photographed and have 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 Jesse. They must plead either “guilty” or “not guilty.” If Jesse refuses to enter a plea, the Judge 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 Jesse submitting to the arrest or, if necessary, by a physical apprehension of Jesse. An arrest can be made with or without an arrest warrant. Jesse must be told the reasons for their 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 Jesse is unfit to stand trial or not criminally responsible by reason of mental disorder. There are also Ontario's Mental Health Act assessments, which assist a Judge in sentencing.

Audio/Video Appearance (or Remand): If Jesse is in custody they may appear from the prison by way of a video-link, called "video remands." If Jesse is in custody and at a hospital or psychiatric facility they may appear in court by phone/audio-link. This is an "audio remand" and is used only for adjournments. If Jesse is not in custody, it is called an "audio appearance."

B

Bail: A form of release permitting Jesse to reside in the community until their charges are dealt with. Bail refers to the release of Jesse by the court, as opposed to cases in which the police release Jesse prior to bringing them to court. If the police choose to bring Jesse 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 Jesse is then held in custody until the charges are dealt with.

Bail – Consent Release: The Crown in court has reviewed the file and consented to Jesse's release on bail until their charges are dealt with. The Crown will propose the type of bail (undertaking or recognizance) and the terms Jesse is expected to follow, but the final decision lies with the presiding Judicial Officer (a Justice of the Peace or Judge).

Bail Hearing: When the Crown does not consent to Jesse's release, the Court will hold a hearing and a Judicial Officer will decide whether Jesse should be released into the community or detained in custody until their charges 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, declaring that they will supervise Jesse if they are released on bail. A surety can be residential (they live with Jesse), or non-residential (they live elsewhere but still monitor Jesse). Usually, 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 Jesse. A surety can revoke their pledge (of money) 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 Jesse's arrest is issued.

Bail – Terms: The terms of Jesse's release back into the community. Standard terms include coming to court when directed and notifying the court of any change in address. Other terms depend on the charges and Jesse'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 Jesse violates a term of the bail release, such as not obeying a curfew, they can be arrested for a breach of bail. If that happens Jesse will likely go back to bail court. Any financial pledges made to the court, either by Jesse or the surety, can be forfeited to the Crown during a later hearing, called an Estreatment Hearing.

Beyond a Reasonable Doubt: The highest standard of proof to convict an accused. The evidence must be so convincing that, based on the facts, no reasonable person would question the accused's guilt.

Bench Warrant: A warrant for Jesse's arrest issued by the presiding Judicial Officer if Jesse does not attend for a scheduled court date. The warrant will be given to the police to locate Jesse 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 Jesse has been ordered to appear in court but cannot appear for a valid reason, such as being in hospital. The discretionary warrant allows the court to maintain jurisdiction over Jesse but allows Jesse a certain amount of time to attend court prior to the warrant being executed.

C

Controlled Drugs and Substances Act (CDSA): 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 Jesse. Jesse 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 which guarantees Jesse's rights, under the Charter, to ensure a fair trial.

Community Service: A type of sentence under which Jesse is ordered by the Court to provide volunteer services in the community. For an adult accused like Jesse, community service must be ordered as a term of probation, while a youth accused can be ordered to do community service independent of a probation order.

Community Treatment Order (CTO): A Community Treatment Order (CTO) is an order under Ontario's Mental Health Act which governs a person diagnosed with a serious mental health issue. The purpose of a CTO is to provide Jesse with supervised treatment or care in the community rather than being hospitalized.

Concurrent Disorders: A description used for an individual who has both mental health issues and addiction issues.

Concurrent Sentence: A sentence on two or more charges and the sentences run at the same time as each other.

Consecutive Sentence: A sentence on two or more charges and the sentences run one after the other.

Conditional Discharge: The second-most lenient sentence for an adult accused. Jesse is found guilty by the Court but given a discharge that is conditional upon Jesse following court-prescribed conditions on a probation order. There is no conviction registered. The Ontario Review Board (ORB) can also give Jesse a conditional discharge. If Jesse 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 Jesse will be given a conditional discharge and can reside in the community subject to terms set by the ORB.

Conditional Sentence: A sentence of custody, but one that can be served in the community. Often called "house arrest," Jesse is deemed to be serving a sentence but is in the community subject to court-imposed terms that are usually stricter than probation terms. A conditional sentence must be less than two years. Some charges are not eligible for conditional sentences.

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.

Criminal Record: An official list of Jesse's criminal convictions. There are two types: a nation-wide record, maintained by the RCMP, and a local record maintained by a local police force.

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 several 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 to prosecute Jesse. Depending on the case, a crown brief can be a few dozen pages or thousands of pages and contain items such as witness statements, photographs, videos, and officers' notes.

Custody: A state of being kept in prison. Jesse can be kept in custody prior to their sentence, referred to as "pre-sentence custody." If found guilty after a plea or trial, Jesse can be sentenced to custody as part of their punishment.

D

Defence Counsel: A lawyer with experience in criminal law hired by Jesse to provide legal advice and represent them in criminal court.

Detained: When Jesse is detained, they are held in custody by a court order prior to the completion of their case. Jesse can also be detained by the Ontario Review Board (ORB). If Jesse has been found unfit to stand trial or not criminally responsible by reason of mental disorder, and the Ontario Review Board has found Jesse to be a significant threat to public safety, the ORB can order that Jesse be detained in a forensic psychiatric hospital.

Developmental Disability: In Ontario, this is considered permanent and affects a person's ability to learn and live independently. It can be mild or severe and is present at birth or develops before the age of 18 years.

Disclosure: Jesse has the right to the evidence in the possession of the Crown and police that may be used against them. This is referred to as disclosure. There are a few exceptions to this right. For instance, Jesse is not entitled to evidence that would disclose the identity of a confidential police informant. Disclosure is usually given to Jesse at or shortly after the first court appearance. The "Crown screening form" is included with the disclosure. The screening form indicates the Crown's position on sentencing and may indicate the possibility of a diversion.

Disposition: A term used by the Ontario Review Board (ORB). If Jesse is under the supervision of the ORB, they are subject to a disposition (with terms to follow), rather than a sentence.

Diversion: A program that Jesse can participate in, which can lead to the Crown to withdrawing or staying charges. Eligibility for diversion is guided by the Crown Policy Manual. Diversion is offered to persons with a limited or no criminal record who have committed a minor offence or offences with little to or violence.

Diagnostic and Statistical Manual, 5th edition, Text Revision (DSM-V-TR): Reference book used by medical professionals to diagnose mental disorders.

Dual Diagnosis (DD): Someone who lives with both a mental health diagnosis and a developmental disability.

Duty Counsel: A criminal lawyer paid by Legal Aid Ontario to provide legal advice to an unrepresented accused in court.

E

Election - Crown Election: On hybrid offences, the Crown can elect to proceed by summary conviction or by indictment.

Election - Accused Election: On indictable offences Jesse 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 Jesse and/or Jesse's surety or sureties when Jesse was on a recognizance of bail, pledged money that they would abide by the terms, and then is convicted of breaching a term of bail or for failing 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 the home is in serious crisis and is a risk to themselves or others.

F

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.

Forensic Psychiatric Hospital: There are 10 hospitals in Ontario that provide forensic mental health services (one high-security and 9 medium and low-security). People are only admitted to a forensic psychiatric hospital if they 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; are being assessed for either fitness or criminal responsibility; or are being assessed for infanticide, risk, dangerous offender or long-term offender status.

Forensic Psychiatrist: A psychiatrist whose clinical expertise is applied in a legal context.

G

Gender-Affirming Care: Psychological, social and health supports that affirm an individual's gender identity. The aim is to promote overall safety and well-being.

H

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

I

Indictable Offence: One of the more serious criminal offences, for which the Crown has no choice but to proceed by indictment.

Information: The actual document alleging the offences Jesse is charged with. A police officer swears an information against Jesse. If Jesse 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.

Indigenous Peoples' Court/Gladue Court: A specialized court for individuals who hold status, recognize or self-identify with Indigenous, Inuit or Métis Heritage, and have been charged with a criminal offence.

J

Judicial Officer: A term used to refer to a Justice of the Peace or a Judge. For example, both a Judge 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.

Judicial Pre-Trial Meeting: A meeting between the Crown, defence counsel (or Jesse if they do not have a lawyer), and the Judge during which they discuss the case without prejudice to either party.

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."

K

Keep Fit Order: An order under section 672.29 of the Criminal Code. If Jesse is fit to stand trial, but there is a risk they may become unfit, the court can order that Jesse be detained in a forensic psychiatric hospital rather than a regular prison to ensure they remain 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.

M

Make Fit Order: An order under Section 672.58 of the Criminal Code. If Jesse is found unfit to stand trial, but a forensic psychiatrist has given an opinion that Jesse could become fit if treated, the court can order Jesse undergo treatment at a forensic psychiatric hospital. Certain strict conditions must be met: the order can only be made once; it cannot be longer than 60 days; and

treatment must be the least restrictive and least intrusive possible. This is the only section of the Criminal Code that allows Jesse to be treated against their will.

Mental Disorder: The term used in both the Criminal Code (defined as "a disease of the mind") and Ontario's Mental Health Act (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 individuals living with mental health issues who are charged with minor criminal offences and have no or limited prior criminal involvement. If Jesse successfully completes a mental health diversion program, their charges will be stayed or withdrawn.

N

Not Criminally Responsible (NCR): A defence to a criminal charge under section 16 of the Criminal Code. This defence is available to Jesse if their mental disorder was such that it rendered Jesse incapable of appreciating the nature and quality of their offence or of knowing it was wrong.

O

Oath/Affirmation: When a witness, victim, or Jesse 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. 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 Jesse is arrested and taken into custody but later released from the police station upon signing an undertaking with certain conditions.

P

Parole: Jesse is released into the community prior to the end date of their sentence and is subject to supervision under strict terms.

Peace Bond: A peace bond contains terms that Jesse 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 or a peace bond under s.810 of the Criminal Code.

Penitentiary: A prison run by the Federal government. If Jesse is sentenced to 2 years or more in custody, the sentence will be served in a penitentiary.

Plea Resolution: An agreement between the Crown and Defence Counsel (or Jesse if they are self-represented) whereby both sides have agreed that Jesse will plead guilty to certain offences, and the Crown will withdraw the other charges and seek a specific sentence. The final decision regarding a sentence always rests with the presiding Judge.

Plea Inquiry: Prior to Jesse entering a guilty plea they will be asked certain questions. The Judge will want to ensure Jesse is entering the plea voluntarily, admitting to the facts of the case, understands the consequences of the plea, and is aware that no matter what plea resolution has been discussed, the sentence is ultimately up to the Judge.

Preliminary Inquiry: If Jesse is charged with an indictable offence, other than an absolute jurisdiction offence, they have the right to choose to have a preliminary inquiry in the Ontario Court of Justice prior to having a 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 Jesse has the right to request to hear from specific Crown witnesses.

Pre-Sentence Report: A report ordered by a Justice to assist in sentencing Jesse. A pre-sentence report is written by a probation officer and includes Jesse's background, family supports, current issues, and some suggestions on sentence.

Probation: A sentence imposed for a criminal offence. A probation order can be for any length of time up to 3 years. It can be imposed with a suspended sentence, a conditional discharge, in conjunction with a fine, or after a term of imprisonment. A probation order will have terms that Jesse must follow and relate to the offence and the causes of it. Common terms include reporting to a probation officer, taking counselling as directed, not having contact with certain people, or not possessing weapons.

Public Interest: The Crown balances the interests of the public, the victims, and the accused. Many factors are considered, such as seriousness of the offence, harm, or risk of harm caused by the offence, and the accused's degree of responsibility.

R

Reasonable Prospect of Conviction: The crown has sufficient evidence to believe the guilt could be proven beyond a reasonable doubt.

Recognizance: A form of bail release in which Jesse pledges an amount of money to the court and declares that they will follow the bail terms. A recognizance can also include a surety who also pledges money and declares that they will supervise Jesse. If Jesse resides more than 200 km away from the jurisdiction in which they were charged, a recognizance can include a certain amount of money being deposited in advance of Jesse being released from custody.

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 record suspension. If this

is granted to Jesse, the offence is no longer part of their criminal record. A record suspension can be revoked if further crimes are committed.

Reformatory: A prison run by the Provincial government. If Jesse is held in custody while awaiting trial/plea/sentence, they are held in a reformatory. If Jesse is sentenced to less than two years of custody, that sentence will serve her sentence in a reformatory.

S

Search Incident to Arrest: If Jesse is arrested the police have the right to conduct a preliminary search of Jesse's person and their immediate surroundings for evidence or anything that might be dangerous, such as weapons.

Sentence: The punishment imposed if Jesse is found guilty of an offence.

Stay of Proceedings: An application by the Crown to suspend the charges against Jesse. A stay is like a withdrawal of the charges, except that the Crown can recommence the proceedings against Jesse 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.

Subpoena: A legal document ordering a witness to attend Court and give testimony. A subpoena may request that the witness provide oral testimony.

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 Jesse to appear in court at a specific time and location to face charges. A summons may also include a time and location for Jesse to attend for fingerprinting.

U

Undertaking: A form of bail release in which Jesse promises the court to abide by certain conditions. No money is pledged, and no sureties are required.

Unfit to Stand Trial: Jesse is unfit to stand trial if they are unable to conduct a defence during the course of criminal proceedings as a result of mental disorder. If Jesse is unable to understand the nature of the proceedings, the possible consequences of the proceedings, or is unable to communicate with counsel, Jesse will be found unfit to stand trial.

V

Verdict: The decision of the Court as to whether Jesse is guilty or not guilty of the charges.

Victim: A victim can be the direct victim of the crime, such as a person who was assaulted, or an indirect victim. This could be a family member of someone who was killed because of a crime.

Victim Fine Surcharge: A monetary amount added to Jesse's sentence. Money collected goes towards various programs to assist victims of crime. The surcharge is automatically added to Jesse's sentence unless the Judge 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 Jesse'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.

W

Withdrawal of Charges: The Crown can end the case against Jesse 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 expert witnesses who can provide an opinion on specific issues, such as a psychiatrist.

Y

Youth Criminal Justice Act (YCJA): The statute that governs accused persons charged with offences that occurred while they were between the ages of 12-17. This includes accused who are currently ages 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 Youth Criminal Justice Act.

APPENDIX B:
Mental Health Forms

The following are the most common mental health forms that Jesse would encounter:

Form 1: An order made under section 15 of Ontario's Mental Health Act. Under section 15 a physician can commit Jesse to a psychiatric hospital for observation for up to 72 hours. There are specific criteria that must be met, as the order can force Jesse to attend and remain at the hospital against their will.

Form 2: An order made under section 16 of Ontario's Mental Health Act. Under section 16 a Judicial Officer can order Jesse to go to the closest psychiatric hospital for an examination, at which point the physician who examines them may choose to issue a Form 1. The Judicial Officer must hear evidence under oath that satisfies certain criteria, as the order allows the police to apprehend Jesse and bring them to the hospital, without Jesse's consent, if necessary.

Form 3/4: Forms under Ontario's Mental Health Act permitting Jesse's continued involuntary detention in a psychiatric hospital. If the treating psychiatrist feels that Jesse meets the criteria for involuntary admission after the Form 1 expires after 72 hours, then a Form 3 is issued. A Form 3 expires 14 days from and includes the day it is signed. A Form 4 is issued if the Form 3 expires and Jesse still needs to remain an involuntary patient. This form expires 1 month from the date the Form 3 expired. If the Form 4 is renewed, it will expire 2 months from the date the first Form 4 expires. When a Form 4 is renewed a third time, it, and all subsequent renewals, expire 3 months from the date the previous Form 4 expired. Jesse has various rights of appeal against these forms as outlined in Ontario's Mental Health Act and will have access to rights advice through the Psychiatric Patient Advocate Office (PPAO).

Form 6/8: Forms under sections 21 and 22 of Ontario's Mental Health Act which allow a Judge to order a psychiatric examination of Jesse.

Form 9: If Jesse is an involuntary patient and leaves the hospital, a Form 9 under Ontario's Mental Health Act will be issued directing the police to search for and apprehend Jesse. A Form 9 remains in effect for up to 30 days.

Form 48: A form under section 672.11 of the *Criminal Code* ordering a forensic psychiatric assessment to determine fitness to stand trial or criminal responsibility.

Forms Used in Ontario's Mental Health Act

FORM	FORM NAME	SECTION OF MHA	WHO SIGNS
1	Application by Physician for Psychiatrist Assessment	15	Physician who examined person at Emergency Room
2	Order of Examination	16	Justice of the Peace
3	Certificate of Involuntary Admission	20 (1) (C)	Attending Physician in psychiatric facility
4	Certificate of Renewal	19	Attending Physician
5	Change from Involuntary to Voluntary Status	20 (4)	Attending Physician, must specify reason for change
6	Order for Attendance for Examination	21 (1)	Judge
7	Confirmation by Attending Physician of Continued Involuntary Status	48 (12)	Attending Physician
8	Order for Admission	22 (1)	Judge
9	Order for Return	28 (1)	Staff person in charge of psychiatric facility
10	Memorandum of Transfer	29 (1)	Staff person in charge of psychiatric facility
11	Transfer to a Public Hospital	30 (1)	Staff person in charge of psychiatric facility
12	Warrant for Transfer from Ontario to another Jurisdiction	31	Minister of Health and Long Term Care
13	Order to Admit a person coming into Ontario	32	Minister of Health and Long Term Care
* 14	Consent to Disclosure, Transmittal or Examination of Clinical Record	Replaced by forms generated by specific facility.	Patient or person authorized to consent
15	Statement by Attending Physician	35 (6)	Attending Physician
16	Application to Consent and Capacity Board to Review a Patient's Involuntary Status	39 (1)	Involuntary Patient, or anyone on their behalf; staff in charge of facility, Minister of Deputy Minister of Health & Long Term Care

FORM	FORM NAME	SECTION OF MHA	WHO SIGNS
17	Notice to Consent & Capacity Board of the Need to Schedule a Mandatory Review of Patient's Involuntary Status	39 (4)	Staff person in charge of psychiatric facility
18	Application to the Board to Review a Finding of Incapacity to Manage Property	60	Patient or outpatient
21	Certificate of Incapacity to Manage One's Property	54 (4)	Physician who performs examination
22	Financial Statement	55	Staff person in charge of psychiatric facility
23	Notice of Cancellation of Certificate of Incapacity to Manage One's Property	56	Attending Physician
24	Notice of Continuance of Certificate of Incapacity to Manage One's Property	57 (2)	Physician who performs examination
25	Application to Consent and Capacity Board to Review Status of an Informal Patient between 12 and 15 years of age	13 (1)	Young person between 12 and 15 years inclusive
26	Notice to the Board of Need to Schedule a Mandatory Review of the Status of an Informal Patient between the ages of 12 to 15	13 (2)	Staff person in charge of psychiatric facility
27	Notice by Officer in Charge to an Informal Patient 12 -15 Years old	38 (6)	Staff person in charge of psychiatric facility
28	Request to Examine or to Copy Clinical Record	36 (2) 36 (16)	Patient or person authorized to consent
29	Application to the Board to Withhold all or part of the Clinical Record	36 (4)	Staff person in charge
30	Notice to Patient	38 (1)	Attending Physician
31	Application to the Board to Review a Patient's Competency to Examine/ Disclose his or her Clinical Record	36 (14)	Patient

FORM	FORM NAME	SECTION OF MHA	WHO SIGNS
36	Notice of the Right to Appoint a Representative	36.1 (4)	Attending Physician
40	Notice to Patient of Right to Apply for a Representative	6.2 (2)	Attending Physician
41	Application to Consent and Capacity Board to Appoint a Representative	36.2 (1)	Patient
42	Notice to Person of Application for Psychiatric Assessment	38.1	Attending Physician
44	Appointment of a Representative	36.1	Person appointing representative
45	Community Treatment Order	33.1	Physician qualified to issue a CTO
46	Notice to Person of Issuance /Renewal of CTO	33.1 (10)	Physician
47	Order for Examination	33.3 (1) 33.4 (4)	Person subject to CTO or representative; physician
49	Notice of Intention to Issue or Renew a CTO	33.1(4) 33.1 (8)	Physician who intends to issue or renew CTO
50	Confirmation of Rights Advice	14.3 (5) 16 (2)	Rights Advisor

Capacity for Decision Making

Depending on Jess's capacity for decision making, other forms may be used. Below is a listing of the form pertaining to an individual's capacity for decision making of the Health Care Consent Act (HCCA).

FORM	FORM NAME	SECTION OF HCCA
Form A	Application to the Board to Review a Finding of Incapacity	32
Form B and C	Application to the Board to Appoint a Representative	33 (1) (2)
Form D	Application to the Board for Directions	35
Form E	Application to the Board for Permission to Depart from Wishes	36
Form F	Application to the Board with Respect to Place of Treatment	34

FORM	FORM NAME	SECTION OF HCCA
Form G	Application to the Board to Determine Compliance with s. 21	37
Form H	Application to the Board to Amend the Conditions of or Terminate the Appointment of a Representative	37 (7) (8)