
Building a better Youth Court:

Toronto community consultations

October 2019



About the photographs

All of the photographs in this report were taken by Toronto-based photographer Yasin Osman. Osman is an award-winning photographer and visual story teller who specializes in capturing images of the living world. Raised in Regent Park, Osman began to take photos to document his rapidly changing neighbourhood. In 2015, Osman founded #ShootForPeace, a photo mentorship program in Regent Park, blending his background in early childhood education and passions for youth empowerment and photography.

None of the individuals pictured in the photographs participated in our consultations or have necessarily had any interaction with the justice system.

To see more of Yasin Osman's art, visit: www.yescene.com or [@yescene](https://www.instagram.com/yescene)

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Peacebuilders is a charitable non-profit organization based in Toronto that runs programs and services for youth in conflict and works towards effecting change in our youth justice and education systems. Peacebuilders uses restorative practices to keep young people out of the justice system, make schools safer for learning and development, and build strong and healthy communities.

Since 2004, Peacebuilders has run a court-diversion program for young people between the ages of 12 and 17 charged with criminal offences. Peacebuilders' court-diversion program is based out of the Ontario Court of Justice youth and family court at 311 Jarvis Street.

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Foreword

This report includes informed and passionate perspectives about Youth Court from youth, their families, frontline workers, and justice professionals. Policymakers, governments, funders, and justice professionals can use these experiences and perspectives in decision-making, policy development, and youth justice service design and delivery. We can take into account the opinions of young people, as well as those working within Youth Court when we think about how to improve youth justice services.

By 2022, all of Toronto's youth and adult criminal courts are consolidating in one location downtown. When the Ministry of the Attorney General of Ontario first proposed this plan, in 2014, many youth justice advocates expressed concern that this was not the best way forward for youth justice services in Toronto.¹ They believed that young people would not benefit from a combined youth and adult "megacourthouse,"² and that the specialized youth justice services established at each of the three Youth Courts in Toronto (2201 Finch Ave. W, 1911 Eglinton Ave. E., 311 Jarvis St.) would be lost. In particular, youth justice professionals were concerned that the dedicated youth justice services that have been developed for the last 60 years at 311 Jarvis would be compromised at a courthouse designed to handle more than 40,000 adult criminal justice cases a year.³

Peacebuilders believes that the new Toronto courthouse is not the best future for Youth Court in Toronto. We support a separate courthouse for youth—one uniquely devoted to addressing the underlying issues that lead young people into conflict with the law.

However, as the new Toronto courthouse is going ahead, Peacebuilders, with funding from the Laidlaw Foundation, undertook community consultations about how specialized services can be maintained in the new Toronto courthouse.

Over the course of 10 months, Peacebuilders consulted with over 150 people, including young people who have appeared in Youth Court, their parents, frontline workers, and justice professionals that regularly work in Youth Court in Toronto. We repeatedly heard concerns about the new Toronto courthouse and its impact on youth in conflict with the law. In particular, we heard that young people will not receive the specialized attention and support that they currently receive from smaller, more community-based courthouses; that a downtown location will not be accessible to young people from across the city, and that young people fear potentially violent run-ins with other youth going to and from the new courthouse. These concerns are elaborated on in this report.

This report also increases our understanding of the impact of our current practices in Youth Courts and identifies the major challenges currently facing youth in court and opportunities for improvement, as well as the strengths—identified by youth themselves.

The voices of young people are too often missing from discussions on youth justice policy and practice in Canada. This report captures some of those voices. Let's listen to these voices and commit to creating a more responsive, more effective youth court system.

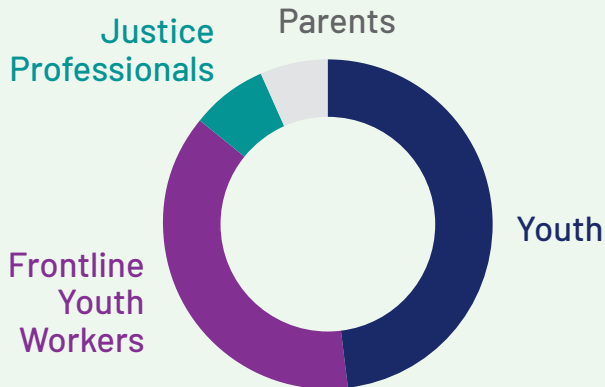
—Eva E. Marszewski, Founder, Peacebuilders

1. David Sterns, "OBA President David Sterns writes to Minister Naqvi on youth criminal justice matters in Toronto," Ontario Bar Association, March 21, 2017 (by e-mail). See also: Jacques Gallant, "Don't try youth offences at massive new Toronto courthouse, advocates say," *Toronto Star*, Monday, October 29, 2018. Available at: <https://www.thestar.com/news/gta/2018/10/29/dont-try-youth-offences-at-massive-new-toronto-courthouse-advocates-say.html>; Carolyn Gruske, "Criminal and youth lawyers worried about new Toronto 'mega' court," *The Lawyers Daily*, Wednesday, May 23, 2018. Available at: <https://www.thelawyersdaily.ca/articles/6500/criminal-and-youth-lawyers-worried-about-new-toronto-mega-court>

2. R. Roy McMurtry and Eva E. Marszewski, "The new Toronto megacourthouse is not for youth," *Toronto Star Opinion*, Wednesday, May 2, 2018. Available online at: <https://www.thestar.com/opinion/contributors/2018/05/02/the-new-toronto-megacourthouse-is-not-for-youth.html>

3. Sterns, 2017.

We consulted with 156 people to learn about their experiences in court.



There are 3 Youth Courts in Toronto. By 2022, all Toronto's youth and adult criminal courts will be amalgamated in **one location downtown.**

The young people painted a complex picture of their experiences in court. **Some described not feeling "seen" or "heard" in court.** Others described feeling completely "stuck," while some felt like they were "falling through the cracks."

We also heard stories of positive experiences with the court system—of interactions with individuals working within the courts who helped connect young people with the supports and services they needed.

We identified 16 themes.

- youth-serving agencies and youth-friendly people in the courthouse
- youth specialty courts: youth mental health court | Aboriginal Youth Court
- S.34 assessment reports
- racism and culturally-relevant programs and services
- youth specialized justice professionals
- lack of knowledge and understanding of the Youth Court process
- communication
- lack of adequate legal representation
- participation in Youth Court
- delays and inefficiencies
- stigma and trauma
- food, travel and associated costs
- consistency
- safety
- privacy
- getting the right intervention at the right time

We listened to people's stories.

We developed ideas for action on each theme.

“...part of the challenge is identifying the need at an early stage so that you get the right intervention at the right time. A lot of times I think what happens is there are kids who are sort of floundering who are working through the criminal court process, but it’s not until you’re a quite a late stage in the proceeding that a section 34 report or something like that happens where the needs are really identified in a specific way.”

– Frontline youth worker on S.34 assessment reports

“It’s justice depending on how much you can pay for it. How much can you pay for your legal representation?”

– Parent on the lack of adequate legal representation

“I didn’t get a chance to share my side of the story. I think it’s important to be able to at least tell you side of the story. It doesn’t matter if they take it serious or not. It just makes you feel good to be heard. Nobody wanted to hear what I had to say. It was just, ‘you did this, you get your punishment, you did this, you get your hours’ and then you just get over it.”

– Youth on participation

“I think the judges in [youth mental health court] and the Crown are amazing. The judges are very fair, and I think that’s good that the judges are also understanding instead of looking at you as a criminal they look at you as someone who has gone astray because that is often the case.”

– Youth on Youth mental health Court

Introduction

“I could run down to a police station and accuse you of something and you’re gonna get charged for it. Because that’s exactly what happened to me...I appeared in court 7 times until they said you’re off.”

– Youth

“They say it’s justice, but it’s not really—it’s just get this case closed and go on with your day.”

– Youth

“The outcome of the whole case in general—like what they offered me—how they gave me a second chance...They gave me a program to do instead of just charging the first time. [The courts] kind of understand that people make mistakes, especially young people. They kind of understand they can give you a second chance. I thought that was really good.”

– Youth

By 2022, all of Toronto’s youth and adult criminal courts are consolidating in one centralized courthouse downtown. It will change the way youth justice services are designed and delivered in Toronto. It presents an opportunity to imagine how we can do things better.

There is a great deal of research on young peoples’ interactions with police and their experiences in court and custody. However, not all of this research directly listens to young people. This project aims to address this gap by providing access to young people’s voices.

Canada’s youth justice system was established more than a century ago because it was understood that youth are different from adults and must be treated differently. Since then, there is broad recognition, reiterated by the

United Nations *Convention of the Rights of the Child*, that young people are entitled to special rights and protections. In addition, recent advancements in neuroscience have helped us recognize that the part of the brain responsible for reason and decision-making are still developing until one’s mid-twenties. Therefore, adolescents are more likely to engage in risky behaviours.⁴ Even in serious cases, most young people can be safely supported to find a path to a positive future if they are offered effective interventions.

Decades of research confirm that relying on courts and custody is not the best way to support young people in conflict with the law and reduce their chances of reoffending. Since the *Youth Criminal Justice Act* was

4. Tracey Skilling, “Adolescence: Emotional and Cognitive Development and Implications on Decision Making and Behaviour,” 311 Open Bar Series, February 5, 2018.



introduced in 2003, we have significantly reduced the use of courts and prisons in our youth justice system. But our most vulnerable young people—youth who are marginalized, racialized, living in poverty or struggling with mental health issues—are still overrepresented in the youth justice system and still appear before our courts at an alarming rate.⁵ Governments and communities must continue to improve policies and practices—we must embed effective, evidence-informed practices and programs in the youth justice system. And it is clear that we cannot find better solutions for youth without listening to young people.

The young people we spoke to painted a complex picture of their experiences in Toronto’s Youth Courts. Some described not feeling “seen” or “heard” in court. Others described feeling completely “stuck,” while some felt like they were “falling through the cracks.” We also heard stories of positive experiences with the court system—of interactions with individuals working within the courts

who helped connect young people with the supports and services they needed. Taken together, these perspectives provide information and insight into *Ideas for Action*—identified throughout the report, these are concrete ideas to improve youth justice services in Toronto.

Instead of just processing cases, Youth Courts try to use the resources and authority of the justice system to address the underlying issues of accused young persons and ultimately work towards changing their behavior. The principle aim of Youth Court is to prevent offending while upholding the welfare of the young person by ordering interventions designed to tackle the factors that lead young people to offend. This report outlines options to better align this goal with the reality. By listening to those who experience and work in Youth Courts, and combining it with research on best practices, we drafted ideas for action that can be implemented in the new Toronto courthouse.

5. Fitzgerald, Robin T., and Peter J. Carrington. “Disproportionate Minority Contact in Canada: Police and Visible Minority Youth.” *Canadian Journal of Criminology and Criminal Justice* 53, no. 4 (2011): 449-86; Francis, Jenny. “Institutional Humanism and the Discourse of Disposability in the Lives of Criminalized Refugee Youth in Canada.” *Race and Justice* (2018): 1-21

The consultation process

To understand Youth Courts from the point of view of court users—namely young people, their families, justice professionals and frontline workers—Peacebuilders’ organized consultations throughout the City of Toronto. These consultations explored the experiences of those using and working within Youth Courts. Unlike individuals who appear before civil courts, youth and adults are usually compelled to appear before criminal courts. This reality frames their perspective. Indeed, during these consultations, we heard from youth and their families that they do not see themselves as “court users.”

In total, 156 people shared their experiences and perspectives. Consultations took place between January and July 2019.

Methodology

Peacebuilders conducted in-person and telephone interviews, focus groups, and an online survey. Questions were designed in advance in an open-ended format. Facilitators recorded the ideas generated at each session.

Youth

A total of 75 youth between the ages of 12 and 30 participated in this project through online surveys, semi-structured interviews and focus groups. We asked young people about personal experiences and information, including times when they attended court as a victim, a witness, or as the accused, or to support family or friends, or to get information or meet with a lawyer or worker. We also asked young people what they thought about the new Toronto courthouse—how they thought other young people could benefit from it, what their major concerns were, and how Youth Court services could be improved in the new building.

We conducted six focus groups with a total of 44 young people, ages 12 and 30; four focus groups were held in downtown Toronto, one was held near the Finch courthouse, and one was held in Scarborough. All focus group participants had some involvement with the Youth Court system. Focus groups were 90 minutes long and were digitally audio-recorded. Focus groups took place in community spaces, youth drop-ins, and service agencies. Some focus groups were co-organized with other youth-serving agencies in the city. Peacebuilders created flyers to publicly advertise two drop-in focus groups. Peacebuilders’ staff facilitated all of the focus group discussions.

We also conducted individual interviews with 21 young people with recent experience in court. These young people were invited to participate through Peacebuilders’ program or by other partner agencies at 311 Jarvis. Peacebuilders’ staff and placement students facilitated the interviews. Ten young people also completed an online survey.

Parents and families

Five interviews were conducted with parents in person and over the phone. Some parents were identified in Peacebuilders’ program, others were approached for an interview while they were waiting for court. Interviews were facilitated by Peacebuilders staff. In addition, five parents also completed the online survey.

Frontline youth workers

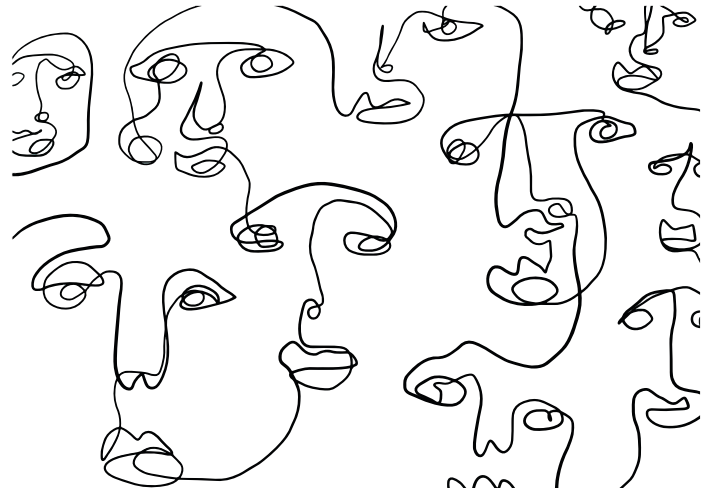
We use the term “frontline youth workers” or “frontline workers” to describe individuals working at youth-serving agencies in Toronto. Frontline youth workers are often the main point of contact for young people navigating the justice system. Some young people are referred to these agencies for court-diversion programming, while others are already connected to frontline youth workers because of their existing involvement with an agency. The type of assistance frontline youth workers provide varies widely: some frontline workers are specifically trained and paid to work with court-involved youth, while others offer support to young people during their court involvement, but are not necessarily trained to provide justice-related services.

A total of 59 frontline youth workers were consulted during this project. We conducted four focus groups with a total of 39 frontline workers in Toronto. One focus group

was held in each of the three youth court areas (2201 Finch, 1911 Eglinton, and 311 Jarvis) and were either held in a service agency near the courthouse or at the courthouse itself. Peacebuilders created flyers for the focus groups and shared them with youth-serving agencies across the city. One focus group was conducted with the Youth Justice Network, and members of its listserve were invited to participate. In addition, 20 frontline youth workers completed the online survey.

Justice professionals

Justice professionals, including duty counsel, defence counsel, bail and probation workers, Crowns, and judges, were invited to participate in a focus group. Invitations to justice professionals were sent directly to Peacebuilders' contacts, as well as through the New Toronto Courthouse - Youth Courts Committee contact list. Six justice professionals attended the focus group. In addition, six justice professionals completed the online survey.



Terminology

Criminal Code: The *Criminal Code of Canada* is the statute that codifies most criminal offences and procedures in Canada.

Diversion: Diversion is the process of holding people responsible for breaking the law without making them go through a trial or formal prosecution process in court.

Extrajudicial Measures (EJM): Extrajudicial measures are “out of court” measures used to hold young people responsible for breaking the law without having to go through the formal court system. A police officer can recommend a young person for EJM before a charge is laid, or a Crown attorney can recommend a young person for EJM after a charge has been laid. Common examples include police warnings and referrals to community programs.

Extrajudicial Sanctions (EJS): Extrajudicial sanctions are considered a consequence or punishment for breaking the law. EJS is only used if other forms of extrajudicial measures would not be sufficient to hold a young person accountable. Examples of EJS include volunteer work and participating in specialized community programs.

United Nations Convention on the Rights of the Child: The *Convention on the Rights of the Child* is a human rights treaty which sets out the civil, political, economic, social, health and, cultural rights of children. The Convention defines a child as any human being under the age of eighteen.

Youth: There is no single accepted definition of youth. Canada’s youth justice system defines youth as being between the ages of 12 and 17. In this report, we use youth to refer to anyone between the ages of 12 and 30.

Youth Court: In this report, the term Youth Court refers to the designated hearings of the Ontario Court of Justice to deal with offences committed under the *Youth Criminal Justice Act*.

Youth Criminal Justice Act: The *Youth Criminal Justice Act* (2003) is the law that governs Canada’s youth justice system. It applies to youth who are at least 12 but under 18 years old, who are alleged to have committed criminal offences.

Themes



Throughout our consultations, we heard stories of young people and their families getting connected to supportive services and individuals that not only helped young people through the Youth Court process but also helped them address the underlying issues that led to their court involvement. The availability of youth-serving agencies and court support workers in the courthouse, specialty Youth Courts, such as the Aboriginal Youth Court and youth mental health courts, youth specialized justice professionals, and psycho-educational assessments were all identified as improving youth justice services and outcomes. Our consultations also identified several current challenges in Youth Court, including:

- young people's lack of knowledge of the Youth Court system;
- court delays and inefficiencies;
- the stigma and trauma associated with contact with the youth justice system;
- lack of meaningful participation in Youth Court proceedings;
- lack of adequate legal representation;
- safety concerns;
- privacy issues;
- racism and lack of culturally-responsive services and professionals;
- lack of support prior to court involvement;
- inappropriate referrals and over-programming of court-involved youth.

Youth voices and the perspectives of professionals on each of these themes is summarized below, followed by a brief overview of related research. *Ideas for Action* are identified, distilling the suggestions, requests, and comments heard throughout the process.

Youth-serving agencies and youth-friendly people in the courthouse

“Just being there in person. Just showing up. It was comforting to have someone who was in the court who was a neutral party that I could speak to. Like a buffer. It was very comforting to have someone there even if they didn’t say anything in court. Just having someone there was helpful. It was a huge comfort.”

– Parent

What we heard

For a majority of the young people and parents we consulted, Youth Court was an intimidating experience. Without guidance and support, these young people often felt lost and confused. They need a guide to navigate the process.

Non-profit organizations such as Griffin Centre, For Youth Initiative, Springboard, Turning Point Youth Services, St. Stephen’s Community House, Aboriginal Legal Services, West Scarborough Neighbourhood Services, John Howard Society of Toronto and many others provide considerable assistance to both the courts and young people.

Peacebuilders has an office at the youth and family courts at 311 Jarvis Street and has been running court-diversion programs since 2004. In addition to court-diversion programs, Peacebuilders recently launched a Youth Mentorship Program that provides ongoing support to some of our most under-served clients. This program provides 4–6 months of client-centred case management services to young people after they have completed the court process. Peacebuilders also has a lunch program, funded by the Law Society of Ontario, which provides a \$6 voucher to the courthouse café to any young person appearing at 311 Jarvis.

Throughout the consultations, we heard over and over again from young people, their parents and families, frontline workers and justice professionals, that youth-serving agencies significantly improve youth justice services and outcomes for young people. Frontline workers from community-based organizations provide invaluable

resources to assist both justice professionals, including counsel, and the Youth Court meet the goals of the *Youth Criminal Justice Act (YCJA)*. This assistance includes identifying the most appropriate resources available to support the youth’s rehabilitation and reintegration into society. In order to effectively use the provisions of the YCJA, the court needs to know what supports a young person has at home and in community, and what options exist to connect a young person to alternatives to trial and formal prosecution.

During our consultations, frontline workers described the increase of youth-friendly people in the courthouse over the last decade. These include court support workers, such as youth mental health court workers,⁶ the Toronto Bail Program, and other youth-serving agencies, as well as judges, Crowns, duty counsel, probation officers, and other justice professionals that regularly work in Youth Court. Frontline workers explained that having youth-serving agencies with offices located in the courthouse was particularly crucial because they can meet with a client right after their court appearance. These offices provide a welcoming, “youth-friendly” space to young people appearing in court. Youth-serving agencies with offices in the court establish stronger relationships with justice professionals. Indeed, frontline workers and justice professionals spoke positively about the collaboration that exists between agencies working within the courthouse and justice professionals.

6. Across Ontario, currently 45 of 54 Ontario Court of Justice Jurisdictions with a youth justice court now have a YMHCW, “Youth Mental Health Court Worker – Program Description,” Ministry of Children and Youth Services – Youth Justice Services Division, 2013.

Youth-serving agencies provide young people with information about the court process, how to apply for legal aid, and how to appeal denied legal aid applications. They help young people prepare for their court appearances and debrief after court to ensure the young person understands what what happened and what they need to do. These agencies also connect young people with a range of services, including individual and family counselling, housing, employment, and educational supports. This kind of wrap-around support extends well beyond the walls of the courthouse to address the underlying issues that may have led a young person into conflict with the law.

“I’ve worked in the court system for quite a while and over the last ten years I’ve seen there are more youth-friendly people in the courthouse... there’s youth mental health court workers, bail program workers, and a variety of different services being offered directly in the courthouse to try to help youth...All of the youth workers really try to worker together. There’s collaboration... and they are open to suggestions from each other.”

– Frontline youth worker

Unfortunately, not all young people who appear in court get referred to these agencies and services. There is no consistent process for youth to find these services, and connections to services are often made informally—sometimes because someone who knows the young person is aware of a service available at the courthouse. In most cases, young people get referred to these services once they are recommended for diversion. As a result, the young person may not be referred until well into the court process.

Many frontline workers will refer their clients to other agencies if there are services that are more conveniently located for a young person, or if they appear to be a better “fit” for their clients. But frontline youth workers were not aware of all of the agencies and services that are available to young people in Toronto. It is difficult to make the appropriate referral without comprehensive knowledge of the various services and resources that exist in the city.

We also heard about the advocacy role that frontline youth workers provide for their clients in court. Even

though they are not lawyers, frontline workers have opportunities to address the court on behalf of their clients or speak to the client’s lawyer or the Crown about the young person’s needs and their positive development.

Some frontline workers expressed concern that the courts “refer to the organizations and people that they know,” which makes it difficult for new agencies and individuals to establish relationships within the court process. Frontline workers were also concerned about agencies competing for funding. Some agencies get funding on a “transfer payment” schedule, receiving funding for each client. Frontline workers expressed concern that this creates the wrong incentive for agencies to take on clients even when a referral to another program would be more appropriate or effective.

What the research says

Research demonstrates the importance of “trusted intermediaries”—community workers who can help people with their legal problems. In 2018, the Law Foundation of Ontario (LFO) commissioned research on how community workers assist people with the legal process and improve access to justice.⁷ The report demonstrates the considerable role that frontline workers play in helping people in the justice system. Although the report was focused on adults navigating the justice system and covers the wide range of legal issues that adults face, the findings from the report are consistent with what we heard during our consultations. By developing trusting relationships with their clients, frontline workers help people better understand the law and navigate the legal system. Frontline workers accompany clients to legal meetings and hearings, help clients complete legal forms, and provide support in a “holistic” way—recognizing that legal issues are often only one part of a client’s problems. Research also shows that frontline workers often share

“There are gaps in services in different locations in the city. So some areas of the city have a high—there are a lot of programs within them—and then there are really bare areas of the city where there is nothing located and trying to navigate the kids safely is a challenge.”

–Frontline youth worker

7. Karen Cohl, Julie Lassonde, Julie Mathews, Carol Lee Smith, George Thomson, *Trusted Help: The role of community workers as trusted intermediaries who help people with legal problems*, The Law Foundation of Ontario (Toronto, ON: 2018).

languages and cultural backgrounds with their clients, and can be more attuned to their clients' circumstances.⁸ This research is consistent with what was heard during our consultations.

The report also identified a number of challenges that trusted intermediaries consistently face, including:

- lacking the confidence to deal with the complexity of legal issues and processes;
- high turnover rates in community organizations;
- insufficient time for workers to address all of their client's needs and keep up with the training and continuing education needed to support their clients;
- limited funding for these roles;

- organizations that do not recognize and support the trusted intermediary role;
- difficulty finding good sources of legal information;
- understanding the difference between providing legal information and legal advice;
- making good referrals to lawyers.⁹

The report describes the importance of legal professionals working collaboratively with frontline workers. Unfortunately, the benefits of these collaborative relationships are not being fully realized because only some lawyers and court professionals develop relationships with frontline workers, often on an ad hoc basis.

"Debriefing with youth at the end of their day—especially if they've gone to court. A lot of times, they will go to court, and things were said that they don't understand. Maybe they don't understand the purpose of their next court date? From a diversion standpoint and working in custody, just debriefing with them when they come back to jail and I'm in a dining hall eating with them, just asking 'How did court go today? Is there anything you're confused about? Do you want me to talk to your supervisors about it?' Helping them understand—just making them comfortable in custody and diversion." – Frontline youth worker

"If there are already positive supports in place for youth, we can find it, identify it, let the court know it's happening... That's positive because if they are already involved in CAS, if they are involved in school and they are meeting with counsellors or psychiatrists already, we identify that and can wrap up their matter more quickly." – Frontline youth worker

"All of the youth workers—I primarily focus at 2201 Finch, but all of the youth workers, we all really try to work together." – Frontline youth worker

"Supporting youth with understanding the court process... Obviously we can't give them legal advice, but we can at least help them understand what is going to happen next." – Frontline youth worker

"Personally, I found out about [For Youth Initiative], through word of mouth, instead of an ad or a flyer. I heard it from my neighbor, which was very beneficial." – Youth

"People along the way that are helping you—that you can ask questions. Like it's a bunch of kids, if the kid has a question then they can go up to someone you actually feel comfortable asking questions, someone can be right there—someone like when you walk in, someone that can briefly explain it to you—I wanna say a counsellor would be good to have." – Youth

8. *Ibid.*, 29.

9. *Ibid.*, 33-39.

"Having someone with you to say what I've done right—they spoke up for me in court." – Youth

"Competition between agencies is a big challenge." –Frontline youth worker

"...It's like a bowl—[the courts] only refer to certain agencies and programs. Some of those aren't working." – Frontline youth worker

"We don't see it as competition at all. Maybe some other people do. We want our kids and our community to be healthy and safe. So if that means referring our kids to another program, we'll do it." – Frontline youth worker

"I found one of the challenges is there are a lot of really good programs in the city, but we don't have access to them because there are waiting lists or they don't live in the right catchment area. There is a lot of red tape to try and get some programs on board." – Frontline youth worker

"When they enter the court system, who is there for them? Parents don't know what to do, and they don't know where to get help." – Parent

IDEAS FOR ACTION

In order to ensure that all young people have access to the programming and supportive services that these agencies provide, it is important to formalize a process for referrals at a young person's first point of contact with the justice system. In May 2019, Turning Point Youth Services (TPYS) launched screening project pilot at 311 Jarvis to address this issue. The screening takes place at the young person's first appearance. It identifies youth in need of further assessment in areas such as mental health, addictions, housing, and education needs. The screening also connects youth identified as Indigenous or with mental health and substance use issues and offers connections to specialty courts at 311 Jarvis. The screening pilot is an important starting point for ensuring more consistent and timely referrals between court-involved youth and youth-serving agencies. TPYS will be evaluating the pilot. Its findings can be shared with funders and decision-makers at the Ministry of the Attorney General to ensure that this pilot program can be integrated into the new Toronto courthouse.

At the new Toronto courthouse, all youth-serving agencies will be working in the same space. It will be critical for youth-serving agencies to develop a plan, together with funders and government, to encourage and promote inter-agency collaboration and partnership.

Organizations, government ministries and funders can work together to develop a service map of the youth-serving agencies that support court-involved youth in Toronto. This can then be used to identify gaps in services, make effective referrals and promote collaboration.

It is important for both community agencies and justice professionals to understand the roles that each plays and trust and appreciate the benefits that each brings to the court system. Opportunities for "two-way education"¹⁰, where frontline workers and justice professionals can learn from each other, can better inform frontline workers about the court process and the role that lawyers play, while also helping lawyers and other justice professionals better understand the needs of their clients.

10. *Ibid.*, 54.

Youth specialty courts: youth mental health court and Aboriginal Youth Court

“I think the judges in [youth mental health court] and the Crown are amazing. The judges are very fair, and I think that’s good that the judges are also understanding instead of looking at you as a criminal they look at you as someone who has gone astray because that is often the case. I can’t say I like all judges. I’ve noticed judges at Old City Hall are generally a bit more harsh and kind of look at you more as a criminal. They treat you like an adult who has a life of crime.”

– Youth

Specialty courts, such as youth mental health courts, and the Aboriginal Youth Court, are designed to ensure the application of certain sections of the *Youth Criminal Justice Act* and the *Criminal Code*, and address the overrepresentation of Indigenous youth and youth with mental health issues in the justice system through a more collaborative and less adversarial process than the traditional court system. Specialty courts are designed to address each individual’s needs and ensure that young people are surrounded by consistent people and supports throughout the process. In both the youth mental health court and the Aboriginal Youth Court, young people are connected with a court worker who supports them throughout the process, including accompanying the young person to every court appearance and connecting them to other supportive agencies and services.

In focus groups and interviews with frontline workers, justice professionals, parents, and court-involved youth, we heard about the benefits of the youth mental health court and the Aboriginal Youth Court. Focus group participants expressed that specialty courts provided a more meaningful experience. They agreed that these courts lead to better outcomes for young people.

i. Youth mental health court

The first Canadian mental health court for youth opened in Ottawa in 2008.¹¹ Since then several similar programs have been established across Ontario, including the Community Youth Court, which opened at 311 Jarvis in 2011, and the youth mental health court at 2201 Finch.

What we heard

Young people described the process in the youth mental health court as being more efficient and “personable”.

The young people who appeared in youth mental health court also spoke positively about the support they received from the youth mental health court workers and the benefits of the counselling services they were referred to.

Many justice professionals who regularly sit in Youth Court described the very low recidivism rates for young people who go through youth mental health court.

11. Krista Davis, Michele Peterson-Badali, Brian Weagant and Tracey A. Skilling, “A Process Evaluation of Toronto’s First Youth Mental Health Court,” *Canadian Journal of Criminology and Criminal Justice*, (2015) Vol. 52(2), 160.

Despite these benefits, frontline workers were concerned that not all youth get the opportunity to participate in youth mental health court. In particular, there were concerns that Black youth are not consistently being recommended for youth mental health court.

“Black youth aren’t [getting referred to youth mental health court] because of systemic racism.”
– Frontline youth worker

Some frontline workers believed that lawyers are not recommending youth mental health court for their clients because the lawyer is unaware of it or reluctant to recommend an unfamiliar process. Frontline workers believed that youth who are connected with a youth mental health court worker at the beginning of their court process are more likely to be recommended for youth mental health court because they have someone in the courthouse advocating for them. Some frontline workers also expressed that all Youth Courts should operate like the youth mental health court.

“The counselling services I went to with my mom—because when I first started coming here we weren’t living together and had no relationship and now it’s like night and day—it made a huge difference with everything. I moved back home, and things moved on from there. I volunteered to go into counselling because I thought it would help with my charges, but now I go because I genuinely want to go.”

– Youth

What the research says

There is little research on youth mental health courts, but recent evidence indicates that when young people go through youth mental health court, they are less likely to re-offend.¹² Youth mental health courts are a promising option for justice-involved youth with mental health needs.¹³ A recent evaluation of Toronto’s first youth mental health court concluded that the court has made considerable improvements since it began, and provides services in a timely manner. However, youth still spend significant time in the traditional court before being transferred into the mental health court.¹⁴

Despite the evidence and the positive experiences that young people had in youth mental health court, the number of youth referred to youth mental health court is low. According to a youth mental health court worker at 311 Jarvis Street, in 2018, approximately 100 youth were in the youth mental health court worker program, and even less were recommended for youth mental health court.¹⁵ This is a small proportion of the number of criminally charged young people that appear at 311 Jarvis (in 2018, there were 987 total cases, involving approximately 400–500 unique individuals).¹⁶ This is surprising given that studies have found that more than 90% of justice-involved youth meet minimal diagnostic criteria for at least one mental health disorder.¹⁷ And, in fact, young people do not need to have a formal diagnosis to be eligible for youth mental health court.¹⁸

Although reports that Black youth are not getting recommended for youth mental health court as often as White youth is only anecdotal, such reports are consistent with existing literature, which shows an over-representation of White males in mental health courts in

12. Monica P. Behnken, “An Evaluation of the Nation’s First Juvenile Mental Health Court for Delinquent Youth with Chronic Mental Health Needs,” PhD. Diss. (Pacific Graduate School of Psychology: Redwood City, 2008). See Also: Davis et al., p.161.

13. Davis et al., 180.

14. *Ibid.*

15. Between June 2011 and August 2013, a total of 184 youth participated in youth mental health court at 311 Jarvis. See: Davis et al. p.184

16. *Offence Based Statistics for All Criminal Cases in the Ontario Court of Justice: Provincial Overview January 2018 to December 2018*. Report. Ontario Court of Justice (2019): 1-68. Available at: <http://www.ontariocourts.ca/ocj/files/stats/crim/2018/2018-Offence-Based-Criminal.pdf>

17. Lauren C. Derup, Allison Croysdale and Norman G. Hoffman., “Patterns of behavioural health conditions among adolescents in a juvenile justice system.” *Professional Psychology: Research and Practice*, Vol. 39, 2(2008): 122-128; Deanne K. Unruh, Jeff M. Gau, and Miriam G. Waintrup, “An exploration of factors reducing recidivism rates of formerly incarcerated youth with disabilities participating in a re-entry intervention”, *Journal of Child and Family Studies* Vol. 18, 3(2008): 284-293.

18. Davis et al., 164.

the United States.¹⁹ This is particularly troubling, given that racialized and Indigenous populations have a “higher prevalence of mental distress and/or risk of suicide than the average Canadian,” and that there is an over-representation of racialized populations, particularly Indigenous and Black populations in the youth justice system in Canada.²⁰

There are currently no Canadian studies examining race and youth mental health court diversion. In 2018–2019, the Racialized Populations and Mental Health and Addictions community of interest (COI) conducted focus groups with adult racialized populations that had gone through mental health diversion, supplementing research and demonstrating the need for race-based data collection throughout the mental health court diversion process. The COI consultations identified a number of recommendations, including:

- collecting race-based data throughout the criminal justice system to better facilitate access to mental health court diversion for racialized individuals;

- more culturally competent and trauma-informed services within the justice system, including specialized training for police officers;
- promoting mental health court diversion by every member of the justice system, including judges, police officers, and mental health court support workers;
- hiring culturally-specific system navigators to share information and resources with justice-involvement individuals;
- expanding mental health court locations and hours of operation across the province.²¹

“The afternoon appearances [in youth mental health court] are better than the mornings because the mornings take way longer—you’ll be here from 9 until 12. It’s so dumb. I’ve been to CYC [Community Youth Court] now a couple times, and it’s really fast.” – Youth

“The Crown [in youth mental health court] made me feel really welcome. Her motivation isn’t to get me out of her court and get new kids in—she actually cares. Today, she said I was the smartest person in my school while she was on the stand.” – Youth

“We see a lot more young people coming into the mental health court at Finch just so they can resolve their matters faster.” – Frontline youth worker

“I was going down a pretty bad path and caused a lot of harm to the people around me. I know it’s not the whole thing, it’s a bunch of different things, but court I guess did help. I honestly think because they got me into CAMH that changed everything.” – Youth

“Why don’t all youth courts work this way?” – Frontline youth worker

19. Christine Conrad, Candace Vena, and Angela Yip, “Racialized Populations and Mental Health Court Diversion: Background Paper, *Communities of Interest (COI) for Racialized Populations and Mental Health and Addictions*, (Toronto, ON: 2018), 8 Available online at: http://eenet.ca/sites/default/files/2018/Racialized%20Populations%20and%20Mental%20Health%20Court%20Diversion%20Background%20Paper_0.pdf; Christine M. Sateschi, Michael G. Baugh, and Kevin Kim, “Assessing the effectiveness of mental health courts: A quantitative review,” *Journal of Criminal Justice*, 39, 2(2011): 12–20.

20. Conrad et al., 10.

21. Conrad et al., 5.

IDEAS FOR ACTION

More research on the relationships between mental health court diversion access for adults and young people will help identify the barriers to mental health court diversion that racialized individuals face. The collection of race-based data throughout the criminal justice system can support this research.

An assessment of the positives of youth mental health court can help determine what aspects can be adapted to all Youth Court processes.

Training for justice professionals about youth mental health and youth mental health court can help ensure that all young people who would be serviced by youth mental health court are referred.

ii. Aboriginal Youth Court

The Aboriginal Youth Court (AYC) was first convened in June 2012 at 311 Jarvis. The judge presides at a “circle” comprised of four tables arranged in a square. The Crown is always present, along with an Aboriginal Court Worker, and defence counsel. The judge encourages anyone supporting the youth, such as parents, guardians, siblings, caseworkers, child welfare workers, probation officers, shelter supervisors, program facilitators, or close friends to sit at the table. Everyone at the table is offered the opportunity to speak about the case at hand.²² According to an evaluation of AYC, Indigenous youth and their families believed that the inclusiveness of the process was “among its most positive attributes.”²³

What we heard

“[At AYC], I got my charges dropped quicker by doing programs. I didn’t have to go to pre-trial. I did an anger management program and I got 13 charges dropped.”

– Youth

During our consultations, we heard about the benefits of AYC from youth and frontline workers. For youth who had been through both AYC and regular Youth Court, they believed AYC was a much faster process. They also felt that the process was more inclusive than regular court, and that they had more opportunities to participate. Young people

appreciated having all of their “support people” with them during their hearings. Young people also described the benefits of being supported by the Aboriginal Court Worker.

Even though all of the youth who had appeared in AYC spoke positively about their experiences, some of them described negative experiences with their lawyers and expressed a desire to be represented by an Indigenous lawyer, or at least to be represented by a lawyer who had an understanding of Indigenous issues, particularly those concerning Indigenous youth.

“There’s a difference between Aboriginal lawyers and non-Aboriginal lawyers. The difference is they know exactly what they’re asking for of the Crown. It doesn’t matter if you’re a youth or an adult. They understand the circumstance. If you open up and talk to them about what’s happening—they will assist you. But with a regular lawyer, they’re not understanding that you should be in Native court. They’re not advocating for me.”

– Youth

What the research says

An evaluation of AYC, conducted in 2016 concluded that the court had considerable benefits for Indigenous youth.²⁴ The evaluation recommended that a centralized Aboriginal Youth Court, “with a concomitant mandate to process all Aboriginal youth cases in the GTA” be created.

22. Scott Clark, “Evaluation of the Aboriginal Youth Court, Toronto,” Aboriginal Legal Services (Toronto, ON: 2016), 33. Available online at: <https://www.aboriginallegal.ca/assets/ayc-evaluation-final.pdf>

23. *Ibid.*

24. *Ibid.*, 44.

As the evaluation identifies, youth who appear at 2201 Finch, and 1911 Eglinton and Brampton are “falling through the cracks”²⁵ and are not getting the benefit of AYC. The centralization of all Youth Courts at the new Toronto courthouse can achieve this recommendation.

The evaluation also stresses the importance of consistent personnel, in particular the Crown, “who should be carefully screened for their knowledge, experience and commitment to Aboriginal justice.”²⁶ It highlights that some lawyers are reluctant to refer their clients to AYC if a co-accused is non-Indigenous because the lawyer would

prefer to have both of their clients appear in conventional court. The evaluation recommends ongoing education of lawyers and clear direction for representing Indigenous clients in AYC to ensure that Indigenous youth cases are heard in AYC. The evaluation raises a question about the unavailability of AYC for young people who do not accept responsibility for what the police say they have done wrong. The evaluation recommends ongoing discussion by the AYC committee about whether it is appropriate to expand the use of AYC circles for youth found guilty after a trial.

“Aboriginal Youth Court was better than regular court because we all sat in a group and got to talk together.” – Youth

“[At AYC], you get to bring up all your support people to the table and actually get to discuss it.” – Youth

“Regular Youth Court takes longer [than AYC].” – Youth

“[At AYC], they got my opinion of what actually happened and they never just took what the police said.” – Youth

“The Aboriginal Court Worker—that saved me for the first time I got arrested.” – Youth

“The Aboriginal Court Worker was very helpful. They stepped in and helped me.” – Youth

“[Lawyers] don’t understand where we are coming from. They’re not woke.” – Youth

“All lawyers hate me.” – Youth

“A lawyer that sits down with you and actually talks to you...that’s what we need.” – Youth

“Lawyers and prosecutors are just dismissive.” – Youth

IDEAS FOR ACTION

Ongoing training for lawyers and other court actors on Indigenous issues, including Aboriginal Youth Court, will ensure that all Indigenous youth have access to the services and supports that are available. Very valuable training materials can be found in the following two reports: *Communicating Effectively with Indigenous Clients* (2019) and *Guide for Lawyers Working with Indigenous Peoples* (2018).

25. *Ibid.*, 46.

26. *Ibid.*, 47.

Section 34 assessment reports

“I think part of the challenge is identifying the need at an early stage so that you get the right intervention at the right time. A lot of times I think what happens is there are kids who are sort of floundering who are working through the criminal court process, but it’s not until you’re a quite a late stage in the proceeding that a section 34 report or something like that happens where the needs are really identified in a specific way.”

– Frontline youth worker

What we heard

Prepared by mental health professionals, Section 34 assessments provide valuable information about the needs and circumstances of the young person before the court. They are designed to identify any relevant mental health concerns, criminogenic factors, potential responsiveness to therapeutic treatment, educational needs and may address the young person’s risk for recidivism.²⁷ Through appropriate diagnosis, plan for treatment, and assistance in identifying the most appropriate resources available to foster the youth’s rehabilitation and reintegration, Section 34 reports are a helpful resource to assist both counsel and the youth justice court to meet the goals of the *Youth Criminal Justice Act*.

In our consultation with justice professionals, we heard about the benefits of Section 34 assessments. Justice professionals reinforced the importance of these assessments to identify relevant mental health concerns and educational needs of young people in court. They explained that these assessments are particularly useful for young people who have undiagnosed learning disabilities. Despite the benefits of these assessments, some participants were

concerned that the assessments are being ordered too late in the process, while others were concerned that they are not being utilized at all.

“I order a [Section 34] report for every young person.”

– Judge

What the research says

In Canada, it is estimated that youth in the criminal justice system have mental health disorders at 2 to 4 times the rate of the general adolescent population.²⁸ However, youth with mental health concerns do not often receive proper assessment and diagnosis of their condition.²⁹ Only 25-30% of these young people actually receive the treatment they need.³⁰ For many young people, the first time they are formally diagnosed and treated for a mental health concern is at Youth Court.³¹

27. Brock Jones, “YCJA Section 34: Medical and Psychological Reports,” *Youth Court Assessment Resource Guide*, 2015, Crown Law Office – Criminal, December 9, 2014.

28. Canadian Institute for Health Information. “Improving the Health of Canadians: Mental Health, Delinquency and Criminal Activity” (October 31, 2008). Available online: www.cihi.ca.

29. Jones, 3.

30. Stanley Kutcher and Ainslie McDougall, A. (2009) “Problems with access to adolescent mental health care can lead to dealings with the criminal justice system.” *Pediatrics and Child Health*, v.14(1).

31. Dax Urbszat, “Youth Crime and Mental Health.” Presentation to the Mississauga Police Force, Mississauga, July 2012.

Section 34 reports may be ordered “at any stage of proceedings against a young person.”³² Counsel are not required to present to the court any formal prior medical diagnosis of the conditions designated in YCJA section 31(1) (b)(i). The court may find that “reasonable grounds to believe” that mental health is an issue simply by the nature of the allegations against a young person, any agreed statement of facts between the parties, evidenced provided from outside sources about the young person’s background or needs, or the court’s own observations of the young person.³³



IDEAS FOR ACTION

Given that many young people who appear before Youth Court may have never had a mental health or educational assessment prior to their involvement in the justice system, these assessments can also be helpful to a young person beyond their court involvement and can help them with their schooling. The educational component of a section 34 report can be beneficial to service providers assisting the young person with educational programming. If a learning disability is diagnosed, providing that information to educators will help facilitate tailored programming for the young person. Judges can order two separate reports so that one can be shared with the young person’s school, without identifying the young person as having involvement with the youth justice system. Utilizing section 34 assessments in all appropriate cases requires more training about these assessments for justice professionals.

32. Basis for ordering a section 34 assessment: (1) reasonable grounds to believe that the young person may be suffering from a physical or mental illness or disorder, a psychological disorder, an emotional disturbance, a learning disability or a mental disability, (2) the young person’s history indicates a pattern of repeated findings of guilt, (3) the young person is alleged to have committed a serious violent offence See: YCJA Section 34(1).

33. Jones

Anti-Black racism and culturally-relevant programs and services

“Because my son is Black [the officer] thinks here is another negligent mom who lets her son run in the streets and get into trouble. Before he met me, he already started stereotyping my son and our family the way he spoke to me.”

– Parent

What we heard

Some participants believed that their race affected how they were treated in the justice system, especially when young people described their interactions with police.

Many of the frontline workers we spoke to also stated that race plays a role in how racialized populations are treated in the justice system. Encounters with police were highlighted as defining moments for racialized youth in the justice process, but frontline workers pointed out that racism goes beyond encounters with police and affects other parts of the court system. Frontline workers believed that Black youth were treated differently than White youth in the courts. One explained that Black and Roma youth are more likely to get extrajudicial sanctions than White youth, who are offered extrajudicial measures for the same kinds of charges.

“We need culturally appropriate services and lawyers that understand where the youth come from—cultural understanding, nuances of when you meet a client from this background versus that background and knowing the families.”

– Frontline youth worker

“There’s two different options: EJM and EJS. We often times see a very top heavy White EJM and a very top heavy Black and Roma EJS.”

– Frontline youth worker

“Hiring people who look like them. Who go through the issues they go through. I think our program is so effective because we know a lot of Black and visible minorities are reflected in the system so that they can see positive images—workers and lawyers who look like them.”

– Frontline youth worker

Frontline workers also believed that lack of culturally-responsive programs and services in Youth Court is a pressing issue. Although many frontline workers found that AYC and Aboriginal Legal Services were meeting the needs of Indigenous youth in court, many identified a gap in culturally-responsive programs and services for Black youth. This was also identified by some youth, one of whom said that she wished she could have gone through “Native court.”

“I wish I could have gone through Native court.”

– Youth

Some participants described the courts as being “oppressive” to racialized youth and expressed a desire for more culturally-relevant spaces.

In addition, frontline workers also described the importance of having justice professionals that “look like youth.”

What the research says

There is very limited research about the relationship between race and the justice system in Canada, in

“Many of the kids that we see often already feel ostracized in their communities and then to be in this oppressive space and feel like they are not—that the services that they need may not be accessible to them. That’s a triple whammy.”

– Frontline youth worker

part, because the Government of Canada does not “systematically collect or disseminate race-based data on criminal statistics”³⁴ When race-based data is collected, it is often used for internal purposes and is not always made available to the public.³⁵

Even though the data is limited, research demonstrates that racialized populations, in particular Black and Indigenous populations, are overrepresented in the justice system.³⁶ Moreover, evidence suggests that racial bias and discrimination is embedded within the administration of criminal justice in Canada, but the limited availability of data makes it difficult to test these claims.³⁷ For example, research shows that levels of police surveillance are greater for racialized populations, and racialized populations are more likely to get caught by police when breaking the law compared to non-racialized populations.³⁸ A recent study of a police pre-charge diversion program in Durham showed that Black youth were more likely to be arrested for cannabis trafficking, than White youth.³⁹

Canadian studies also found that racial bias is evident in the criminal court process. One study found that Black and Indigenous populations were more likely to be denied bail and remanded to custody compared to other racialized populations.⁴⁰ When racialized populations are granted bail, they are released with a greater number of conditions by which they must abide.⁴¹

Studies have revealed that racialized populations view the criminal justice system much more negatively than non-racialized populations.⁴² Specifically, “low-income racialized populations may feel doubly disadvantaged as they not only experience racial discrimination but also do not have the financial means to navigate and access services in the system.”⁴³ These populations may experience more barriers obtaining legal representation, accessing interpretation services, paying for bail and paying for optional rehabilitative and other diversion programs.⁴⁴

Although researchers, policy-makers, and practitioners are increasingly interested in the use of culturally-relevant programming to address the overrepresentation of racialized populations in the justice system, there is limited research on the effectiveness of these programs.⁴⁵ A 2018 report by the Provincial Advocate for Children and Youth on the experiences of Black youth in the child welfare, education, and justice systems recommended that a “Gladue-type” process be developed for Black youth to provide judges with a deeper understanding of the context of individual Black youth prior sentencing.⁴⁶

34. Scot Wortley, “A northern taboo: research on race, crime, and criminal justice in Canada,” *Canadian Journal of Criminology*, 41,2 (1999): 261-274; Scot Wortley, “Hidden intersections: research on race, crime and criminal justice in Canada,” *Canadian Ethnic Studies Journal*, 35,3 (2003): 99+

35. Akwasi Owusu-Bempah and Scot Wortley, “Race, crime and criminal justice in Canada,” in Sandra Bucerius and Michael Tonry (eds.), *Oxford handbook of ethnicity, crime, and immigration* (Chapter 11). (Oxford University Press, 2014):10.

36. Wortley, 1999; Wortley, 2003; Owusu-Bempah and Wortley, 2014

37. Conrad et al., 10.

38. Wortley, 2003.

39. Kanika Samuels, *Examining the Utility of Pre-Charge Youth Diversion Programs: A Canadian Context*. PhD diss.(University of Ontario Institute of Technology, 2015): 1-112.

40. A. Hamilton and M. Sinclair (1991). Report of the Aboriginal Justice Inquiry of Manitoba. Winnipeg: Government of Manitoba; Gail Kellough and Scott Wortley, “Remand for plea. Bail decisions and plea bargaining as commensurate decisions,” *The British Journal of Criminology*, 42, 1 (2002): 186-210.

41. Kellough and Wortley

42. Wortley, 2003.

43. Conrad et al.

44. *Ibid.*

45. Andrew T. Vergara, Parul Kathuria, Kyler Woodmass, Robert Janke, and Susan J. Wells, “Effectiveness of Culturally Appropriate Adaptations to Juvenile Justice Services,” *Journal of Juvenile Justice*, Fall; 5, 2 (2016): 85-103. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5818270/>

46. *Hairstory: A firm foundation for the Future of Black Youth in Ontario’s systems of Care* (Toronto, ON: Ontario Child Advocate, 2019), 41. Available online at: <https://ocaarchives.files.wordpress.com/2019/03/hs-rooted-a-firm-foundation-for-black-youth.pdf>

“Some challenges included being heard, being seen, representation and being Black.” – Youth

“The way [duty counsel] spoke to my son—“you’re just another Black boy and you’re here because you cause trouble.” – Parent

“I think we were treated differently because we were Black. There is stereotyping and stigma in the justice system. The idea that young Black boys get in trouble—that they’re a problem—as soon as they get involved with the justice system they are put in a category that they are a problem to society.” – Parent

“We need to discuss this as a systemic issue—in terms of socioeconomic status, racial status—who is ending up in our justice system? We need to name these things. Judges are prejudiced. How much can we challenge them? The court system is the end of a long pipeline...some of these kids are just rotating through the system.” – Parent

“We’re not court users. People of colour are forced into these spaces. [Courts] are Eurocentric. They are not safe.” – Frontline youth worker

“I always try to believe in the justice system, even though at a young age that it did a lot to my community... I always try to say I like police officers—that they are here for a reason because in case of an emergency we would be calling the police regardless. I would always say hi to police officers. But after going through that process, I did have a hard time liking the police after that, I had a kind of vendetta against them. I didn’t really trust them after that and seeing what they really do behind closed doors. And going through that experience on my own, it made me realize a lot. I also had to accept that not all police officers are like that, just like not all Black kids are like that; not all bad youth are like that.” – Youth

“It just felt like I was one of the regular Black youth who they had arrested. Like they all put us in a category and that’s how I felt when they were looking at me. They talked to me like ‘oh we know you’re a bad kid, don’t put up that front.” – Youth

“They feel that maybe because of their ethnicity or because of their race, they feel that they would be treated differently in terms of punishment...so we have to be mindful in terms of how we are handling each case in terms of race and ethnicity as well.” – Frontline youth worker

“Black parents often get blamed because their kid ends up in the court system. And people are going to say it starts at home, but often the parents are going through so many issues themselves with racism, with their socioeconomic status. They are struggling already.” – Frontline youth worker

“Culturally-specific programs are excellent, but how do we know about them and get our kids into them? Trying to get those culturally-specific programs in the courts. We had a hard time getting our program into 311 Jarvis because we are not on that official list so they wouldn’t refer. They know us, but they won’t always refer to us.” – Frontline worker

“Creating something that’s multicultural—getting the courthouse to reflect the youth itself—so trying to interject those multicultural programs or just simply an art piece or something done by the youth that’s positive.” – Frontline youth worker

“The court space is oppressive.” – Frontline youth worker

IDEAS FOR ACTION

There is a need for more research on culturally-specific programs and services. This research will support evidenced-based funding for culturally-programming.

Considering the impact of anti-Black racism on young people's lives prior to sentencing, using a Gladue-type model, holds promise and should be further investigated.

More training for justice professionals on anti-Black racism in the justice system could help justice professionals better identify and support the needs of Black youth.



Youth specialized justice professionals

“The youth system is very different from the adult system and I find that when youth come in and they pick a lawyer just kind of randomly, it’s not a lawyer who specializes in youth matters. A lot of times their lawyers don’t know the youth process and don’t know that there are all of these alternatives to going to trial or pleading guilty or whatever. So I think a lot of youth don’t get the benefit of doing certain programming because their lawyer has no idea and they don’t know the system either..”

– Youth

What we heard

It is essential that justice professionals, including counsel, Crown and judges, who work in Youth Court be knowledgeable about the *Youth Criminal Justice Act* and youth justice issues. However, not all justice professionals have a basis in youth justice issues. During our consultations, we repeatedly heard about the importance and benefit of youth specialized justice professionals. Frontline workers and justice professionals emphasized that Crowns and judges who regularly work in Youth Court develop an understanding of how to work with young people and how to speak to them, as well as knowledge of the services and supports available to justice-involved youth. This specialization is particularly important when the young person does not have legal representation or when their lawyer is unfamiliar with youth justice matters. In these situations, the Crown can play a critical role in making sure that the young person gets the supports and services they need. For example, one youth described going to court multiple times without a lawyer, but once the Crown spoke with the young person their matter was properly dealt with.

It is difficult to describe what “specialization” in youth justice really means. Some justice professionals explained that “specialization” includes a mindset in which these professionals are “invested” in Youth Court and youth issues, and are committed to understanding and meeting the needs of young people.

Specialization looks different depending on the courthouse. For example, the Crowns and judges who work at 311 only deal with youth matters and do not go back and forth between the adult system and the youth system. At other courthouses, justice professionals see both youth and adult criminal matters. At Finch, for example, there are judges and Crowns that regularly sit in Youth Court, who also have what we might call “youth specialization.”

“One of the things that is working is the justices of the peace, and the judges at [Finch court] are well versed in all aspects when it comes to young people’s lives, and they have the human touch—outside of the bail process, obviously. You never know who you are going to get as a justice of the peace at the bail stage, but judges and JPs in Youth Court have more understanding and care to follow-up with them.”

– Frontline youth worker

What the research says

There is no existing research or articulation of youth justice specialization. Some focus group participants expressed a desire for this kind of study to demonstrate the importance of youth specialized justice professionals on youth justice services and outcomes.

IDEAS FOR ACTION

In preparation for the new Toronto courthouse, discussions of youth justice specialization, long-term rotations into Youth Court, and processes for building the capacity of new or younger justice professionals can be considered.

Lack of knowledge and understanding of the Youth Court process

“I remember the first time I went to court like it was yesterday. I was by myself. It was just too much going on and everything was going through my head and I didn’t know what to do. I called my sister to tell me what to do.”

– Youth

What we heard

The justice system is often incomprehensible to the average person. For young people, it can be even more confusing. When we hear young people say that they “don’t know” who the judge is—or when they can’t tell the difference between the Crown and duty counsel—it shows the level of confusion young people experience in court. While there are some youth who have an in-depth knowledge of how Youth Court works, most young people do not understand the court process, do not know their rights, and cannot comprehend the legal jargon that is regularly used by justice professionals in Youth Court. In most cases, no one has told them about the process.

Confusion about the court process and lack of understanding was one of the most significant challenges we heard from young people, frontline workers, and parents throughout our consultations. Most of the young people we spoke to described not knowing what to expect from their first court appearance, and they did not know how to prepare or what to do when they got to court. Their lack of knowledge of the court process made the experience intimidating and difficult, and for many young people, made the process seem unfair.

“It would be good if someone asked you what was going on during court because I feel like a lot of questions come into your head while it’s happening cause obviously if you’re a kid in a courtroom for the first time, you’re gonna have questions at the top of your head. You’re thinking about a bunch of things, right? And then you’re sitting there thinking and you have to be quiet—you can’t ask anyone. So you just gotta sit there, and you see what happens.”

– Frontline youth worker

Lack of understanding was also a major challenge for parents and families, particularly for parents for whom English was not their first language. Confusion about the court process made the experience particularly stressful for parents who did not know how to support their children during the process or who to go to for help.

We spoke to one youth who secured legal counsel before he turned himself into police. His lawyer told him about his rights and this gave the young person confidence in the process and his understanding of it.

“It starts with information. How informed children, parents, and communities of what their rights are, what should be the nature of the conversation with police...young people need to know what the consequences will be of having a record on their lives. And it needs to be peer education—from youth to youth and from parent to parent.”

– Parent



What the research says

Research shows that understanding is a key element in “procedural justice”⁴⁷—the perception that the justice process is fair, regardless of the outcome of the case. Although it is true that many accused adults also do not fully understand their rights or the legal process,⁴⁸ lack of understanding is especially serious with young people. An accused young person is expected to be an active participant in their justice process. This requires an understanding of the process, players and terminology.

When people are in crisis or under stress, they learn differently. Recognizing that youth and their families will not easily understand or absorb information about the justice system is critical to building their legal capability. Studies of youth and adults show that people require multiple opportunities to learn about the legal system,

and that this information should be delivered in a range of formats, including orally, in print and online, allowing people to confirm or refresh their understanding.⁴⁹

Former Chief Justice McLachlin committed the Supreme Court of Canada to write its decisions in plain language, heralding a shift in the use of legal jargon in Canada.⁵⁰ The use of plain language in court, in court documents and in discussions is an increasing imperative in the Canadian justice system. Lawyers, judges and court workers can use language that is familiar and easy to understand, instead of relying on jargon. The push to use plain language in legal proceedings is not a simplification of the process, but simply a commitment to use the principles of plain language communication to convey complex legal concepts and processes.⁵¹

“I didn’t even know what was going on. I knew a little bit, but I didn’t really know...I think it would be important for me to know what was going on because if I was there and not knowing what was going on than what is the point of me going?” – Youth

“I didn’t know who the judge was. There was just a bunch of people sitting and I didn’t know who was who.” – Youth

“The language if the justice system is inaccessible and intimidating.” – Frontline youth worker

“I wish I knew more about the interaction between the lawyer, the Crown and the judge—that process. I’d like the process explained to me if I’m going to be prosecuted or diverted. If I’m going to be judged I’d like to know how I’m going to be judged.” – Youth

“I knew why I was there, but the behind the scenes stuff I didn’t understand.” – Youth

47. According to Tom Tyler, procedural justice includes the following key elements: treating court participants with dignity and respect, ensuring that they understand the process, that they have a voice, and that decisions are made with neutrality. See: Tom Tyler, “Procedural Justice, legitimacy, and compliance” (unpublished manuscript), 1987, Department of Psychology, Northwestern University, as referenced in Michele Peterson-Badali, Stephanie Care, and Julia Broeking, “Young People’s Perceptions and Experiences of the Lawyer-Client Relationship,” 2007, *Revue Canadienne de criminologie et de justice pénale*, Vol. 49, 3 (2007): 377.

48. Richard V. Ericson and Patricia M. Baranek, *The Ordering of Justice: A Study of Accused of Persons as Dependents in the Criminal Process* (University of Toronto Press, 1982).

49. Lisa Wintersteiger, *Legal Needs, Legal Capability and the Role of Public Legal Education* (Toronto: Law for Life: the Foundation for Public Legal Education, 2015). Available at: <http://www.plecanada.org/wp-content/uploads/2017/12/Legal-Needs-Legal-Capability-and-the-Role-of-PLE-Law-for-Life.pdf>; Kristina Brousalis, *A Framework for Ontario: Introducing a Working Legal Capability Matrix* (Toronto: Community Legal Education Ontario, 2016). Available at: http://www.plelearningexchange.ca/wp-content/uploads/2016/09/working-legal-capability-matrix.September-2016.final_.pdf

50. The Right Honourable Beverley McLachlin, “Legal writing: some tools,” *Clarity* 51 (May 2004): 5-9. Available online at: <http://www.clarity-international.net/journals/51.pdf>

51. “Clear Language and design tips,” *Community Legal Education Ontario*, accessed 2019 <https://cleoconnect.ca/develop-legal-information/clear-language-and-design-tips/>

“Understanding what to do when I got there—that was probably a challenge ‘cause when we were going there we really had no idea what to do or what to expect. So we were always talking about it and saying things we thought we should’ve done, but we didn’t even know what to expect, right? So it was just ideas. I didn’t know, for example. How I should’ve been dressed, right? I didn’t know if I had to dress formally or if I could just dress in my normal clothes...I didn’t know what to bring with me. The first time I was getting my finger print, [my mom] didn’t know that I needed to bring a passport or anything so the first time we went we couldn’t even do anything. It was a drive there and back because we didn’t bring my identification. They just changed it to a different day.” – Youth

“The first time I went to court I was confused about the whole thing because I had no idea what to expect and what to do...I was there with my mom. She asked someone for help the first time because she didn’t know where to go either...my mom asked my lawyer questions that I had because I was just too nervous.” – Youth

“It’s a really big issue in this community too. It’s not just the youth who doesn’t know, but their parents don’t know. They might be new to Canada. They might not speak the language. And there is nobody really there to help guide them through the processes.” – Frontline youth worker

“I turned myself in. I met with my lawyer, and he told me everything I needed to know what would happen.” – Youth



IDEAS FOR ACTION

There will always be a new generation of young people who will require public legal education, whether in schools or in communities. Ongoing and expanded support for public legal education for youth will help to meet this need.

When young people are in court they need opportunities to ask questions. Young people in court will not remember everything their lawyer or the judge explains to them. Providing multiple formats of the same information or links to independent, trusted sources of reliable legal information can strengthen their understanding and trust. An emphasis on the use of plain-language in the courthouse, in conversation, in court proceedings and in print materials, will help young people and their parents better understand the Youth Court process.

Communication

“My options for Peacebuilders—I would definitely like to have knowledge of that from the beginning and not as I’m offered it at the very end. I should be aware of the options in front of me. It can help plan for their future, right? Not only that, it can shorten everybody’s time to go through the courts. Tax payers money, you know what I mean? Stuff they can save a lot.”

– Youth

What we heard

Inconsistent communication was identified as a major barrier for court-involved youth and frontline workers during our consultations. Frontline workers explained that lawyers and court personnel did not communicate about what was happening in court to young people, and this created a great deal of confusion for young people. Some young people believed that all of their court appearances were part of their “trial” even when they were being offered diversion. Some youth believed that they would be remanded to custody because their lawyer did not explain the diversion process to them.

Communication between lawyers and frontline workers, particularly diversion service providers, was also identified as a pressing issue. Some lawyers accepted diversion for their clients, but did not communicate the steps their client needed to take to start a diversion program, which led to delays.

“My lawyer isn’t here that often. Sometimes she sends people to come. But the communication is poor between us”

– Youth

“They are under-informed. Because half the time, their lawyer is showing up for them, and they don’t know what’s going on. They don’t know when their next court date is, and their lawyer isn’t communicating with them—this is what’s happening, this is what you need to do. So I feel like it’s really lawyers that need to improve on communication.”

– Frontline youth worker

Many frontline workers and youth were particularly concerned about the lack of communication between lawyers and clients when a young person has signed a designation allowing their lawyer to appear without them.

What the research says

Legal capability is a concept that considers a person’s understanding and ability to manage their legal issues. Studies in the UK have examined how young people develop the knowledge, skills and attitudes to understand, act on and follow through with their legal matters.⁵² Communication in this context goes beyond simply being told about a legal process and includes receiving the information at the right time, with concrete steps for taking action. In Ontario, CLEO has examined the legal capability framework and identified strategies for ensuring that communication about court processes is effective and relevant to their stage of the process and based on the person’s circumstances.⁵³

52. Wintersteiger

53. Brousalis

“They literally didn’t say anything to me. That’s the messed up part. They called me up to the front just so the judge could look at me. But they didn’t say anything to me. They just told me to come back in July. Seven times I went.” – Youth

“When you get legal aid for your lawyer, I wish we knew that you should be able to contact your lawyer. When we would contact our lawyer, he wouldn’t answer us or he’d leave us one text, or on a day of court he wouldn’t show up. I wish I knew I was able to talk to someone and tell them about that because I feel like I was unaware.” – Youth

“I wish I could have talked to my lawyer more.” – Youth

“I think just being transparent and using language that they understand. The whole jargon—the whole lawyer talk—[youth] don’t really get that. So using language that they understand and just being clear and transparent so that they know what is going on and understand the process.” – Frontline youth worker

“If they are there in person—they are there to ask questions, and their lawyer will tell them what’s going on now. But I feel like when they’re not there—obviously this is not their one client. They have to go to this court, this court, so okay, they’ve already dealt with this youth and they are not their so they don’t call them for a quick five minutes to say ‘This is what’s going on and this is what happened.’” – Frontline youth worker

“Many of the cases, I find the lawyers themselves are not even there. There are people appointed to the cases to represent the lawyer, and I think the breakdown in communication comes from there too. Because sometimes someone comes from the law firm to represent the lawyer and it’s not the same lawyer that is representing the kid, and there’s a communication breakdown.” – Frontline youth worker

“I don’t know if it’s the language piece or the communication piece, but I’ve actually had a youth who pleaded guilty and she thought she was going to be sentenced—she had a sentencing and she thought she was going to be in custody. She didn’t know that her sentencing was probation. She didn’t actually understand what the sentencing was. There was a gap there in communication from her lawyers or whoever. If I wasn’t there to get the information for her, she thought she was going to be locked up.” – Frontline youth worker

“I think communication is key too. Some lawyers will come to the program office to check up on them and see how they are doing versus the young person who has a lawyer where we as professionals can’t even find that lawyer and then they stroll in on the last day: ‘so how’s everything going?’ ‘Actually, we haven’t seen your client for three months.’ So the more engaged the lawyers are, the better it is for the young person and the agency as well.” – Frontline youth worker

IDEAS FOR ACTION

At every stage of the process, lawyers, court workers, and justice professionals can build young people’s legal capability by explaining each step of the process, the likely outcomes, the time frames and the expectations. Including print versions of this same information or reinforcing this in emails or text messages will allow young people to clarify what happened when they speak to a youth worker or family member.

Lack of adequate legal representation

“Getting a lawyer who was respectful of what was going on with my son—that was one of the biggest hurdles. Getting good representation to take care of the matter was the biggest challenge. Our lawyer was very unprofessional. He was not credible. He wasn’t respectful of time, and he didn’t do his job. He hung my son out to dry. He wouldn’t show up for court dates.”

– Parent

What we heard

Many young people are not adequately informed of or assisted in the process of securing counsel through Legal Aid Ontario. Young people complained about waiting for hours on the phone and then having their application denied because they were not able to provide the right financial documentation from their parents. If their applications were denied, most young people did not know how to appeal their applications. At 311 Jarvis, there is a staff person who provides young people with help on their legal aid application and with the appeal process, but this is not the case at every courthouse. In addition, some of the young people we spoke to were reluctant to apply for legal aid because they did not think they would receive adequate legal representation from a “free” lawyer.

Throughout our consultations, parents, youth and frontline workers complained to us about the quality of defence counsel. Inadequate legal representation is not only a problem for low-income youth represented by underfunded legal aid lawyers, but also an issue for young people being represented by private counsel that were not familiar with the youth justice system. Some frontline workers described youth who are represented by a family member or friend of the family who does not regularly work in Youth Court. In one example, a frontline worker said that the young person would have been better served by duty counsel that regularly works in Youth Court. One participant suggested that youth who are being offered diversion should not need to secure their own legal counsel and would be more appropriately represented by duty counsel.

One frontline worker described lawyers who “scoop up” clients at the courthouse to get legal aid certificates, and explained that this regularly leads to delays in the court process. Another suggested that because legal aid certificates are easier to get for youth cases than for adult cases, there may be more lawyers trying to represent youth clients despite their lack of specialized experience or expertise.

“The duty counsel kept asking if I understood what was going on—is everything good? Is everything clear? He asked me like five times. They were listening to me. He asked me a lot of questions. Do you understand this? Do you understand that? Because I got a restraining order—a restriction not to go to a certain address and he asked me ‘is that address close to you? Talk to the judge.’ So he was listening. You can tell he cared.”

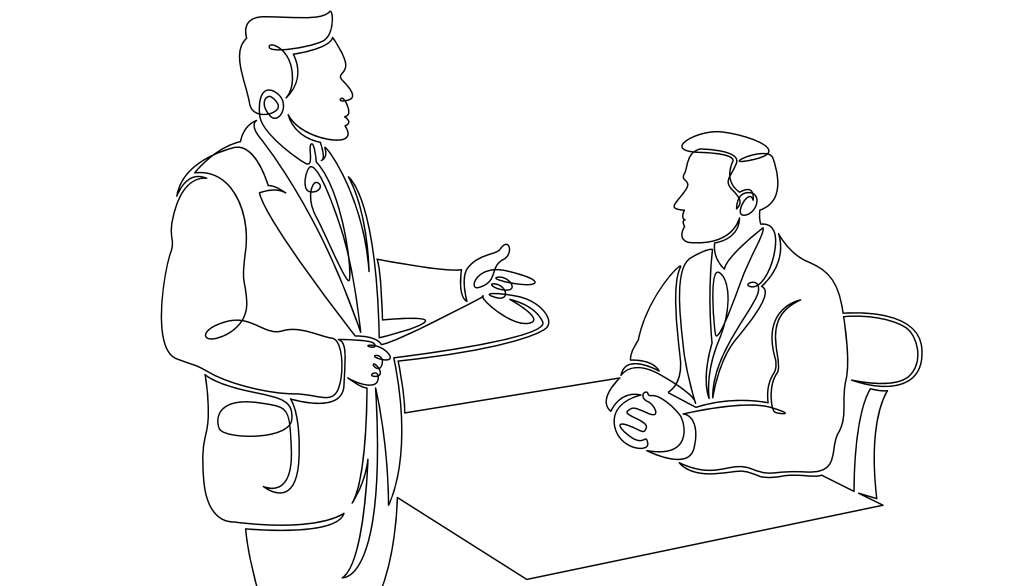
– Youth

What the research says

Young people want counsel who understand them and know about their situation. Lawyers representing young people should be knowledgeable about the psychological, educational, developmental and social issues facing their clients. They must be aware of the various services and supports available in their client's communities, and the numerous alternatives to trial available to young people. Article 12(2) of the UN *Convention of the Rights of the Child* codifies their right to participate in legal proceedings through effective representation.⁵⁴ Most importantly, lawyers must also understand the *Youth Criminal Justice Act*. But many of the frontline workers that we spoke to stated that defence counsel do not know the Act and are unaware of the alternatives available to young people.

All young people are entitled to legal representation in Youth Court. If a young person has not secured private counsel before their first appearance, they will be represented by duty counsel—legal aid staff lawyers who can give immediate, legal assistance to people who appear in court without a lawyer. If they cannot afford a lawyer, the young person can apply to Legal Aid Ontario and get a lawyer to represent them for the rest of their case.

Many of the young people we consulted with were either inadequately represented or not represented at all during their youth justice proceedings.⁵⁵ This criticism does not reflect on the expertise of the defence bar nor that of legal aid staff lawyers in Toronto. Rather, it reflects the inconsistent funding of legal aid services, a systemic problem across the country. Duty counsel are under intense time pressures—often having to speak with multiple youth in a few minutes before court starts. In addition, lawyers working on legal aid certificates are paid lower hourly rates or are only paid for a portion of the hours on a case and may be doing portions of the case pro-bono. These time and financial constraints result in lawyers being stretch too thin, representing young people without adequate resources.



54. Nicholas Bala and Claire Houson, *Article 12 of the Convention on the Rights of the Child and Children's Participatory Rights in Canada* (Ottawa: Department of Justice Canada, 2015). Available at: <https://www.justice.gc.ca/eng/rp-pr/other-autre/article12/Article12-eng.pdf>

55. Nicholas Bala and Sanjeev Anand. *Youth Criminal Justice Law*, Third Edition (Toronto: Irwin Law Inc., 2012), 394.

“Specialized lawyers...makes navigation of the system a lot easier because they can educate their client and their client’s families along the way.” – Frontline youth worker

“When you don’t have a lawyer your first time as a young offender it’s a struggle. You don’t know what to do. You’re always confused. And it’s kind of hard to remember stuff because you’ll just be like confused about all the words they’re saying too.” – Youth

“My son’s lawyer told me he had another client who was paying him a lot of money—as if to say that my son’s case wasn’t important enough to show up.” – Parent

“It’s justice depending on how much you can pay for it. How much can you pay for your legal representation?” – Parent

“I see a lawyer reject any alternative programming because they are going straight for probation, while the youth has already been engaged in community programming...and the lawyer completely dismisses it or tries to unless other people advocate for the youth. So it not only draws out the process, but it can lead to an actual sentence versus withdrawal or a peace bond.” – Frontline youth worker

“I’ve watched kids actually get pleaded out by a lawyer...and I’ve listened to parents begging not to get a sentence because they had so many obstacles and the charge didn’t warrant it and the lawyer says, ‘it’s okay, it’s what we’re doing,’ and pleaded them out too quickly.” – Frontline youth worker

“If you don’t trust your lawyer, what does that mean for you?” – Frontline youth worker

“I wish I knew lawyers are free. They shouldn’t just tell you here’s a 1-800 number. No, they should tell you ‘you get a free lawyer if you go to this place at the court and when you get released.’ There should be someone there who says ‘okay, let’s get you your lawyer’—a person who knows the pathway. Or they just have to teach it to people.” – Youth

“[Young people] assume that if [the lawyer] is free, they are not going to do as good a job.” – Frontline youth worker

“On the flipside...we see young people who come from a large amount of privilege as well, so again, you know [their parent] works or lives in a certain location and their neighbor is a lawyer doing them a family favour and he knows absolutely nothing about youth criminal justice, and it’s a disservice to the young person.” – Frontline youth worker

“Lawyers are coming in and asking if they don’t have counsel and scooping them up and from that it delays the whole court process—lawyers scooping up clients for legal aid...Because duty counsel will appear for their set date and tell them to read their disclosure package first and the Crown will notify them if they need a lawyer and it just complicates the situation when inappropriate lawyers or counsel take these kids—predominantly kids of colour—to get funds from legal aid and they are not really doing anything. But they delay the process for over a year or two and they don’t really need to be in court that long.” – Frontline youth worker

“They don’t know how to get their own lawyer.” – Frontline youth worker

IDEAS FOR ACTION

Efforts are underway to develop a specialized youth panel with Legal Aid Ontario.⁵⁶ This will provide a standard for legal aid funded lawyers working in Youth Court.

The model currently offered at 311 Jarvis, of a Legal Aid Ontario intake person to help young people with the legal aid appeal process, can be formalized at the new Toronto courthouse.

56. Legal Aid Ontario, “Legal Aid Panel Memberships,” accessed 2019. http://www.legalaid.on.ca/en/publications/fact_panelmemberships.asp

Participation

“...maybe if the judge can hear you and see how you’re feeling and see your reaction, it would be different. It would be better to tell the judge myself because he could see that I knew I screwed up...he would understand you more than just your lawyer...I think it would change the outcome.”

– Youth

What we heard

Young people are guaranteed legal representation in Youth Courts. The presumption is that young people are capable of instructing counsel in their defence against criminal charges. In other words, a young person should be able to participate in court proceedings in the same way that an adult would by instructing counsel and choosing whether to plead guilty or engage in a diversion program.⁵⁷ However, the ability for young people to participate in youth justice proceedings is greatly affected by their knowledge of the system—“and by the quantity and quality of information they are given about the process.”⁵⁸ As described above, many young people reported that they find court proceedings confusing and their legal representation inadequate. This greatly impacted their ability to participate in court proceedings.

“Instead of just a Youth Court, maybe there could be a youth room where you can speak to the judge about what happened before you go to court. Yeah, the lawyer tells them. But maybe if the judge can hear it from you and see how you’re feeling and see your reaction it would be a lot different. I told my lawyer my side of the story but he explained it to them. I never really shared by side of the story to them. Most definitely it would be better to tell the judge myself because he could see that I knew I screwed up. They need to understand you more than just your lawyer.”

– Youth

“I feel like if the judge got to hear my side of it, or the Crown, or stuff like that their opinion would definitely change on like how it happened, right? Because they don’t know the full story, right? If they had the background to it and what led up to it and stuff like that their opinion would probably change.

‘Cause I feel like the way it’s written and the way they see it and then your side, it’s like too completely different sides of the story. It’s like you could’ve done something, you could’ve had a strong reason behind it, or you could’ve been forced into that situation and then they would never know unless you explained it to them. I feel like it would definitely be more helpful if I got to share my side.”

– Youth

Even when young people did have legal counsel, many still felt that they did not have an opportunity to “share their side of the story.” Many of the young people we spoke to felt that the court was a “private conversation” between their lawyer, the Crown and the judge that did not involve them. In some cases, young people were discouraged from speaking in court because their lawyers were worried they might say something incriminating.

Some justice professionals we spoke to suggested increasing the use of conferencing to give young people more opportunities to participate in judicial proceedings.

57. *Children’s Right to Be Heard in Canadian Judicial and Administrative Proceedings*. Report. Justice for Children and Youth. (Toronto, ON, 2019).

58. *Ibid.*

What the research says

The right to be heard in youth justice proceedings is stated in rule 14.2 of “The Beijing Rules” (United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985).⁵⁹ It requires that proceedings should be conducted in an “atmosphere of understanding,” which allows the defendant to participate and express themselves freely. The provision served as the basis for the adoption of the broader “right to be heard” formulated in article 12 of the United Nations *Convention on the Rights of the Child*.⁶⁰ However, several studies on the “adjudicative competency”⁶¹ of young people conclude that individuals below the age of 14 years may not be able to sufficiently understand a criminal court hearing.⁶² Even older adolescents are not yet able to fully participate in a Youth Court hearing without the assistance and support

of an adult.⁶³ According to a number of studies on youth perceptions in the criminal justice system in Canada, young people do not have sufficient knowledge of the legal system and the provisions that govern youth justice proceedings “to fully and freely participate in criminal proceedings against them.”⁶⁴ When young people are not able to participate in youth justice proceedings, but are still held criminally responsible for their actions, they are unlikely to fully understand the consequences, which leads to a greater disconnect with the youth justice process. Young people need assistance in the court process in order to be able to participate effectively. When young people and their families are not afforded an opportunity to participate in youth justice proceedings it can lead to negative views of the justice system.⁶⁵

“I feel like in the situation I was in, no one gets to talk about the situation. It’s more like your lawyers get the papers and then...I feel like it would be better if would could get to talk...to the Crown attorney, justice of the peace...” – Youth

“My lawyer, whoever was there that was talking for me, just talked to the judge—telling them that I’ve done this, I’ve done that, and yeah, like that’s about it and wondering when I should come back. They never really talked to me about anything.” – Youth

“I didn’t get a chance to share my side of the story. I think it’s important to be able to at least tell you side of the story. It doesn’t matter if they take it serious or not. It just makes you feel good to be heard. Nobody wanted to hear what I had to say. It was just, ‘you did this, you get your punishment, you did this, you get your hours’ and then you just get over it.” – Youth

“I feel like no one gets to talk about the situation. It’s more like your lawyers get the papers and then done...I feel like it would be better if we could get to talk.” – Youth

“Sometimes the youth or the parent will get the courage to ask a question and the lawyer will say ‘No, no, stop talking,’ essentially...They are not really part of the process. It’s just the lawyer, the Crown and the judge. The process isn’t designed for them and it’s not inclusive.” – Frontline youth worker

59. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”). Report. United Nations. (New York: NY, 1985).

60. Stephanie Rap. “A Children’s Rights Perspective on the Participation of Juvenile Defendants in the Youth Court.” *The International Journal of Children’s Rights* 24, no. 1(2016): 93-112.

61. Don Cipriani, *Children’s rights and the minimum age of criminal responsibility—a global perspective* (Surrey: Ashgate Publishers, 2009).

62. Ido Weijers and Thomas Grisso. “Criminal Responsibility of Adolescents: Youth as Junior Citizenship.” In *Reforming Juvenile Justice*, edited by Josine Junger-Tas and Frieder Dunkel, 45-67. (New York, NY: Springer, 2009).

63. Stephanie Elaine Rap-Leurs. *The Participation of Juvenile Defendants in the Youth Court. A Comparative Study of Juvenile Justice Procedures in Europe*. PhD diss., Utrecht University. (Utrecht: Utrecht University Repository, 2013).

64. Anthony N. Doob, and Carla Cesaroni. *Responding to Youth Crime in Canada*. (Toronto, ON: University of Toronto Press, 2004).

65. Carolyn Greene, Jane B. Sprott, Natasha S. Madon, and Maria Jung. “Punishing Processes in Youth Court: Procedural Justice, Court Atmosphere and Youths Views of the Legitimacy of the Justice System.” *Canadian Journal of Criminology and Criminal Justice* 52, no. 5 (2010): 527-44.

"I wasn't given not one chance to share my side. I wanted to but when I go up there they just kept talking back and forth and I couldn't speak. I feel like everyone should get a chance to speak. I didn't even know what was going on because if I was there and not knowing, then what's the point of me going?" – Youth

"When I was in front of the judge, I was not allowed to share my side of the story." – Youth

IDEAS FOR ACTION

In order for Youth Courts to be more accessible to young people and to ensure young people's right to participation, the legal process must be clearly explained to young people. Lawyers can be better trained to communicate with young people. The decisions made during a judicial process can be clearly and thoroughly communicated to the young person. Lawyers, parents, and frontline workers play important roles in ensuring that young people have an opportunity to participate in Youth Court proceedings.

Lawyers can help the young person prepare for the hearing and assist them at the hearing itself. The lawyer can explain the procedures, judicial jargon, and rituals of the court. They can also explain the charges and what is expected of the young person in court—what to wear, how to behave, and how to address the court—and the young person's rights.

Parents and frontline workers can provide social support. Assisting young people in court will lead to increased understanding of the process, increase their ability to participate in the process, comply with decisions and trust that the process and decision are fair.

Delays and Operational Issues

“Going every month just to get the next date, that’s so stupid. That’s no efficient, yeah that’s not efficient. I don’t know why they’re doing that. I deserve an explanation... Because then it’s discouraging, you’re plainly saying you’re going to be punished, you’re going to come back here every month to avoid your punishment until you serve your punishment. Yeah the uncertainty of not knowing—it’s not a good feeling...It feels discouraging, like I said.”

– Youth

What we heard

One of the major challenges youth, parents and frontline workers identified during our consultations was delays and inefficiencies in court. Even though many of the young people we spoke to did not have to go to trial to have their matter dealt with, they were still required to appear in court numerous times before they were offered diversion and had their charges withdrawn. Many young people expressed frustration about the number of appearances they had to make, many of which seemed “pointless.” In addition, when young people appear in court, they complained that they will often have to wait for hours before their matter is heard. These kinds of inefficiencies and delays can cause young people and their families to lose confidence in the system.

“Going there kinda not knowing how long you’re going to stay. Because that’s the big one, right.... You don’t really know because sometimes you spend like 30 minutes and sometimes you spend like 4 hours there and so you never really know how long you’re going to stay there and what to expect.”

– Youth

Some young people told us that having a lawyer’s designation meant that their lawyer could appear in court on their behalf, which reduced the number of times a young person had to go to court. But some believed that their lawyer did not communicate what was happening in court and having a lawyer’s designation made them feel removed from the process and confused about what was happening with their case.

What the research says

In *R v Jordan*, the Supreme Court of Canada held that section 11(b) of the Charter of Rights and Freedoms, which protects the rights of accused to trials within a reasonable time, presumptively required a trial in provincial court in 18 months after charges are laid (without a preliminary inquiry) and 30 months in all other cases.⁶⁶ Although *Jordan* applies to adult criminal court procedures, there is an expectation that the Supreme Court of Canada will articulate a similar limit on Youth Court matters that may be even shorter. The case dealing with this issue is currently before the court.^{67,68}

The notion that youth trials should be completed in as short a span as possible is embedded in the *Youth Criminal Justice Act* itself, in the section outlining its principles: “...timely intervention that reinforces the link between the offending behavior and its consequences, and; the promptness and speed with which persons responsible for enforcing this Act must act, given young person’s perception of time...”⁶⁹

66. *R. v. Jordan*, 2016 SCC 27, [2016] 1 S.C.R. 631

67. Doug Beazley, “A Jordan Rule for Minors?” *National Magazine*, March 13, 2019.

68. *K.J.M. v. Her Majesty the Queen*, [2019].

69. Youth Criminal Justice Act (S.C. 2002, c. 1), 1-3

The youth justice system considers it especially important for young people that there not be a long delay between the offence and the sentence—that the defendant experience more immediate consequences. The courts recognize that a teenager is going to experience 12 months or more in court a longer period than an adult would. However, according to a

recent Statistics Canada Report⁷⁰, released on January 24, 2019, the report shows that Youth Court cases are taking 7 percent longer from the previous year, to a median of 106 days in total.

“You go to court 3-4 times, you’ll get a lawyer. 5 times they’ll start actually working on your case. 7 times they’ll actually beat your case depending on how difficult...and then 8-10 times, you’re done. That’s how many times it takes to beat one case. 10 times to the courthouse.” – Youth

“It’s tough. It’s so busy. It takes your whole day. I don’t feel like they are really looking at people’s case properly. I feel like they are rushing us through.” – Youth

“Because they are just trying to get everything done as quickly as possible to get through all the people that are there.” – Youth

“A few months at least. At least 6 months for them to actually deal with your charges. I didn’t get a peace bond for a long time and it just kept going on.” – Youth

“They just give you a bunch of files and you have no idea what they mean or what to do with them without a lawyer or legal aid. No idea....And then it goes on for longer and longer because you don’t know what you’re doing.” – Youth

“It took 4 years for them to deal with my charges.” – Youth

“The Peacebuilders program stuff should be offered within the first few months instead of after over a year. You know what I mean? Definitely save a lot of time.” – Youth

“They kept setting off my pre-trial and didn’t follow-up. They never gave me reasons. They set it off and set it off. I went to court 9 times.” – Youth

IDEAS FOR ACTION

Better communication to young people about the reason and timing of their court experiences could help alleviate their frustrations with court delays.

Courts can try to schedule by half days or by blocks of the court day so young people do not have to miss as much school in order to attend for their court appearances.

Dedicated Crowns and judges would ensure timely review of cases, release of disclosure, and consideration of diversion. The efficient processing of youth cases would increase consistency and reduce delays.

70. Zoran Milandinovic, “Adult criminal and youth court statistics in Canada, 2016/2017,” Statistics Canada, accessed 2019 <https://www150.statcan.gc.ca/n1/pub/85-002-x/2019001/article/00002-eng.htm>

Stigma and trauma

“It’s a traumatizing experience coming into the system and sometimes we expect them to function normally when they are going through trauma. And they may be doubly traumatized if there is violence around them. So many of these kids have seen people get killed or know people who have been killed so there is a lot of trauma surrounding them when they come in.”

– Frontline youth worker

What we heard

During our consultations, frontline workers, in particular, expressed their concern for the trauma that young people experience in court. Participants explained that court-involved youth are often already struggling with trauma, and the court experience can exacerbate these issues. We heard about the need for more trauma-informed training for justice professionals and all individuals that work in courts, including security, as well as trauma-informed practices in courts to improve outcomes for youth who interact with the court system.

“It’s just stigma here. Once you get arrested, once you have charges, once you have to go to the courtroom and stuff, you are automatically put into the box of ‘you are a problem to society’. When we were in the waiting room [in the courthouse], we were looking at each other like ‘Oh what did this person do? He probably did something bad. Look at the way he’s dressed That’s why.’ Everyone was looking at each other. For me, I don’t dress like a ‘hoodlum’ as people would say so it was like ‘Oh, what did she do?’ So everyone is worried. It was very toxic for me. Being in that place where I had to get up and walk around a lot—everyone was watching each other. It’s just the environment.”

– Youth

“The fact that you can’t talk when the judge is talking, you just feel so unauthorized, you feel like everyone is there to get you. Especially when you have a charge or you’re a criminal, as they would say. Everyone just looks at you that type of way.”

– Youth

In addition to trauma, young people, frontline workers and parents spoke frequently about the stigma of court involvement. Many young people felt like they were viewed as “criminals” when they were interacting with police and appearing in court.

Even though many young people felt stigmatized in court, we also heard young people describe experiences where they were treated with incredible dignity and humanity—that they were recognized for being “more than just their charges.” These experiences led to more positive self-perceptions during their court involvement.

What the research says

Research shows that interactions with the justice system, including police, courts and custody can perpetuate trauma among justice-involved youth.⁷¹ When a child experiences trauma it affects their developmental trajectory in a number of ways, including attachment, affect regulation, dissociation, behavioral control, cognition, and self-concept.⁷² Trauma,

71. Shantel D. Crosby, “Trauma-Informed Approaches to Juvenile Justice: A Critical Race Perspective.” *Juvenile and Family Court Journal* 67, no. 1 (2016): 5-18.

72. Joseph Spinazzola, Alexandra Cook, Julian Ford, Cheryl Lanktree, Margaret Blaustein, Marylene Cloitre, Ruth DeRosa, Rebecca Hubbard, Richard Kagan, Joan Liautaud, Karen Mallah, Erna Olafson, and Bessel A. Van Der Kolk. “Complex Trauma and Dissociation in Children and Adolescents.” *Psychiatric Annals* 35, no. 5 (2005): 390-98.

if left unaddressed, can lead to mental health issues, substance abuse, vulnerability to new trauma, and various acting out behaviours. Research has shown that young people with psychological trauma—as a result of a single or chronic threat to their physical or emotional safety—and complex trauma—as a result of ongoing or adverse stressful life events—are more likely to interact with the youth and criminal justice systems over their lifetime.⁷³ For those working through trauma, they perceive the court and the justice system through that lens.

The Canadian youth justice system attempts to reduce the stigmatization of justice-involved youth, most notably by the provisions that limit the amount of public disclosure of young accused identities. Although youth courts are open to the public, with the rare exception, young people cannot be named or identified publicly. Nevertheless, numerous studies suggest that encounters with the justice system, including an interaction with police or a court appearance, can be a very stigmatizing experience for young people because young people come to see themselves as “criminals”.⁷⁴ Research shows that these experiences can lead to re-offending.⁷⁵

“I felt very lost in a four wall room and I was very confused. I wish someone would’ve told me that’s how you feel so I could’ve prepared myself a little better. It was very shocking. I was in shock for a couple of hours. I was just sitting there staring at the ceiling like I couldn’t believe it. But as hours would go by and nights would go on I had to accept it. I had to remind myself I am going to get out of here and my life will start again. I’m going to have to face the kids in my school. I’m going to have to walk around my area. I’m going to have to go back to the courthouse. I’m going to have to do all these things again and go back to who I was a couple of weeks ago. So that’s what I wish I knew—how to mentally prepare myself for a situation like that. Thank the Lord I knew how to bounce back. But a lot of people don’t know how to bounce back and the dark side just takes them.” – Youth

“In terms of stress, I think stress becomes normalized for a lot of these kids. They become so used to the whole idea of going to court. It’s traumatic and as a way of coping they just sort of normalize it. It’s the only way they can deal with trauma.” – Frontline youth worker

“There is pre-judgement—that whole idea of innocent until proven guilty doesn’t really exist.” – Youth

“I felt judged. I felt nervous. And I felt like I was never going to get out of the system.” – Youth

“Once you have a familiar face, it’s like ‘Oh, there’s that family again.’ Or ‘there’s that mom again in court.’ And it can be embarrassing for them. And that can be challenging.” – Frontline youth worker

“I know they have to read from a book, but they make us sound like we’re a menace to society. They just have their ways. And they make you look so terrible and they read all of your charges off.” – Youth

“They don’t look at us like we’re kids. They look at us like we’re idiots.” – Youth

“I feel like everyone else got to see me and know I was a so-called criminal. And I saw some people I knew.” – Youth

73. Kristyn Zajac, Ashli J. Sheidow and Maryann Davis, “Juvenile Justice, Mental Health and the Transition to Adulthood: A Review of Service System Involvement and Unmet Needs in the U.S.,” *Children and Youth Services Review* 56 (2015):139–48; Michele Peterson-Badali, Sarah McCormick, Nina Vitopoulous, Krista Davis, Zohrah Haqanee, and Tracey A. Skilling, “Mental Health in the Context of Canada’s Youth Justice System,” *Canadian Criminal Law Review* 19, no. 1(2015): 5–20.

74. Jon Gunnar Bernburg and Marvin D. Krohn. “Labeling, Life Chances, And Adult Crime: The Direct and Indirect Effects of Official Intervention in Adolescence on Crime in Early Adulthood.” *Criminology* 41, no. 4(2003): 1287–1318.

75. Carla Cesaroni and Anthony J. Doob, *Responding to Youth Crime in Canada* (Toronto: University of Toronto Press, 2004): 44.

"I just feel like I was being stereotyped by [the probation officer] because of the way they looked at me, the way they talked to me, the things that they said as in like 'All I care is you admitting what you did and that's all. I don't want to hear the ifs and buts and the whole story. If you want to go into the program, you have to say what you have to say, even though you don't feel like it you gotta say it.'" – Youth

"We want to believe that counsellors and workers don't have a prejudice when they approach certain types of youth, but we all have prejudices whether we want to acknowledge it or not. So when you are dealing with youth, you have to take into consideration what they are going through, how do they feel about the school they are going to—just a simple question like that. Lots of these children feel like they are not supported at school—they are ostracized—when we turn it over to the courts, it's the same thing. It's parallel. And the only way we can change that is the way we look at the youth when we approach the situation with open-mindedness and less prejudice." – Frontline youth worker

"It was actually good with the Crown. It was bad in the beginning because it felt like she was judging me for the crazy stuff that I did, but then she realized that I just came from a place where it's kind of like dysfunctional so there is a reason why I acted that way. But I learned from my mistakes and she realized I was smart and she took me just like a normal person—like everyone else." – Youth

"There was a judge who was really nice and smiley and he looked so happy to hear the things that were being said not just about me, but about all the kids." – Youth

"A young person doesn't want everything to be about the mistake they made that brought them to court." – Frontline youth worker

"There is nothing to expect. It's court. But a little more decency and respect from everyone would help." – Youth

IDEAS FOR ACTION

Everyone working in Youth Court can be aware of the effect of underlying trauma. Trauma-informed practices are vital in the court system, though not all justice professionals are trained appropriately. Trauma-informed court practice does not require a judge or lawyer to provide care, or act as a person's social worker. Nor does it absolve an individual of responsibility for their actions. It does recognize that the people who come before the courts may have experienced acts of violence or other traumatic life events and may experience the stress of the courtroom environment differently. Trauma-informed courts can mitigate these issues.

Trauma-informed practice can shift the perception and response of law enforcement officials and justice professionals towards justice-involved youth. This includes appreciating the vulnerability of the young person and adjusting the manner of questioning and treatment throughout the court process. More funding for trauma-informed training for justice professionals and frontline workers will support the use of trauma-informed practices in court.

When young people are at court and the extent of their trauma becomes apparent a process for referral to a youth mental health court worker or a social worker or others experienced in trauma can assist the young person and the court to deal with these issues.

To minimize the stigma of court involvement, courts can limit the number of contacts young people have with the justice system and the number of times young people come to court for a specific matter. In addition, justice professionals and frontline workers can play an important role in reducing the negative effects of stigma on court-involved youth and their families by acknowledging and celebrating young people's strengths and successes, particularly in bail and sentencing hearings.

Food, transportation and associated costs

“I mean the food. Going downstairs and eating. They give you vouchers. When you’re stressing out you just need something to eat. Peacebuilders—they are really nice. You go and have a conversation with them and they make you smile and help you look at the bright side of everything.”

– Youth

What we heard

The need for healthy food was a major theme we heard throughout our consultations from youth, frontline workers and parents. Although food may seem like a secondary issue when discussing young people’s experiences in court, it is clear that it is directly affecting their experience of court. When young people are hungry, they are more likely to feel frustrated and have difficulty managing their emotions and processing options. Some frontline workers believed that this could lead to further acting out. Young people also expressed a desire for more nutritious food options and food options for those who are vegetarian, kosher, or halal.

At 311 Jarvis, Peacebuilders runs a lunch voucher program that provides a \$6 voucher to the courthouse café to any young person appearing in court. We heard repeatedly about the benefits of this program. Some workers will ask low-income and street-involved clients to meet them at 311 Jarvis, even if the young person does not have a court appearance that day, in order to provide their clients with lunch. But there is no comparable program at the Finch or Scarborough courthouses.

“What’s working? I’ve had some of my youth, if they come to 311 Jarvis, if they need a bus ticket or a meal ticket, they can access that through the Bail Program or Peacebuilders. It’s not happening at other courthouses.”

– Frontline youth worker

Travel and the costs associated with going to court were also raised as issues for parents and families. Although many youth-serving agencies provide transit tokens to young people in their programs, travel costs are not consistently provided to young people appearing in court.

“You know they didn’t bring a lunch and they already didn’t have breakfast. They can’t go for lunch because they are waiting and this causes frustration.”

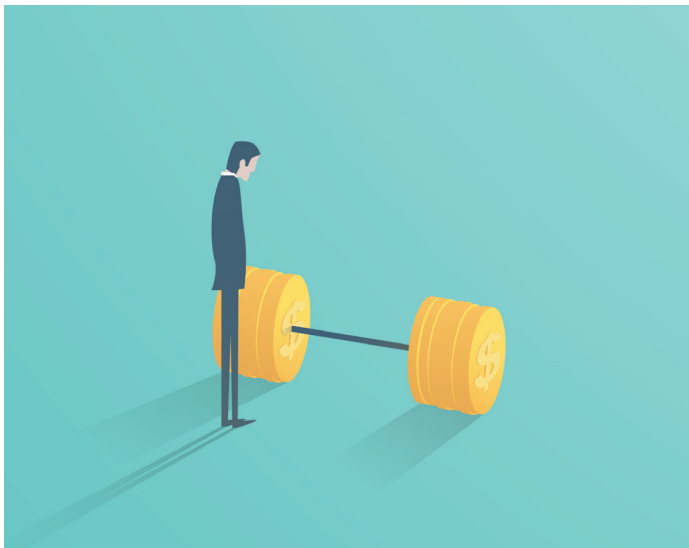
– Frontline youth worker

Many young people, parents and frontline workers also expressed concern about the time and difficulty it will take to get to the new courthouse, especially for those who do not live in the downtown core. Some parents expressed concern that they will have to miss a full day of work to attend court with their child.

“No food just knocks you out. I remember one kid didn’t eat nothing.”

– Youth

Some youth suggested having centralized bus services from Finch and Scarborough to the downtown courthouse. Others suggested getting frontline workers to escort young people to and from court. However, if frontline workers are already stretched for time, it seems unlikely that they would be able to escort all of their clients going to and from court on a regular basis.



What the research says

Studies show that there may be a link between blood sugar levels and high-level human cognition, such as thinking, memory, and decision-making. When more energy is available—that is, when there are higher levels of blood sugar—individuals tend to be more “future oriented,” and are better able to make decisions about the future. Conversely, having low energy (or low blood sugar) makes individuals focus on the present, and unable to make decisions about the future.⁷⁶ Each meal contains a different macronutrient composition that influences a variety of biochemical processes. In other words, it is not only whether and when people eat, but equally what they eat, that affects human cognition.

IDEAS FOR ACTION

More funding for agencies to support lunch voucher programs and assist young people with travel to and from the courthouse will help improve young people’s experiences in court.

Coordination between youth-serving organizations may identify avenues to assist families with transportation or escort youth to the new Toronto courthouse.

Healthy food options within the new courthouse, specifically proximate to the youth justice services will ensure that young people are able to access nutritious food.

76. Association for Psychological Science, “Sweet Future: Fluctuating blood glucose levels may affect decision making,” *Science Daily* (2010). Available at: www.sciencedaily.com/releases/2010/01/100125173444.htm; Sabrina Strang, Christina Hoeber, Olaf Uhl, Bethold Koletzko, Thomas F. Münte, Hendrik Lehnert, Raymond J. Dolan, Sebastian M. Schmid, and Soyoung O. Park., “Impact of nutrition on social decision making,” *Proceedings of the National Academy of Sciences of the United States of America*, 114, 25 (2017): 6510-6514.

Consistency

“I wish I knew they had community programs that could help... The first time I went to court I wasn’t connected to any community programs. The second time I was. But I didn’t get connected to a program every time.”

– Youth

What we heard

We heard that there is lack of consistency both in terms of youth justice services and outcomes. Co-accused charged with the same offence, but represented by different counsel will sometimes get different outcomes. Young people who received different outcomes from their peers believed that the system was unfair.

In addition to lack of consistent outcomes, young people reported that they did not have a consistent experience. Some youth were connected to court supports, while others were not. Some participants also commented on the lack of consistency during the court process. Young people were overwhelmed by the number of different individuals that were involved with their case. In a single court case, a young person may deal with a number of different Crowns and judges. This inconsistency can make the young person feel lost and confused.

“Seeing that every time there is a different judge for a single case. I feel like that is really bad. There is always a different judge or justice of the peace. There should be consistency. If you have a long case and you see a different judge every time, how can they make a proper, right decision if they don’t really know you?”

– Youth

One justice professional recommended having a single judge oversee each youth case, whenever possible.

Frontline workers and justice professionals hoped that centralizing all Youth Courts in the same location could lead to more consistent practices.

“It isn’t all bad. If everyone is working out of one location, it could lead to consistency because it means everyone is doing the same thing in the same place and it could lead to best practices.”

– Frontline youth worker



What the research says

According to the Ontario Court of Justice Family Scheduling Policy, “effective case management should involve assigning a single judge to a case, whenever possible.”⁷⁷ Similar practice directives may be appropriate in youth justice matters.

The sentencing guideline from the *Criminal Code* in 718.2(b) maintains the importance of consistency in sentencing decisions: “a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances.”

As raised by young people in the previous themes on racism and youth mental health court, consistency of process and approach is critical to establishing confidence in the justice system. Youth compare their experience in court, including the speed of their legal process, the diversion options presented to them and the sentence they received. Differences in approach are often perceived as differential, unfair, or discriminatory treatment.

IDEAS FOR ACTION

The Ontario Courts of Justice can adopt a scheduling policy analogous to the one applicable for family cases that involves assigning a single judge to a case wherever possible to maintain consistency during the youth court process.

A formalized process for referrals to youth-serving agencies, as described above, will improve also consistency.

Dedicated, specialized Crown and judges in youth court will improve consistency.

A youth justice panel for legal aid lawyers can ensure a basic knowledge of options for young people.

Early referral to mental health court and other specialized services will improve consistent access to these services.

77. Ontario Court of Justice, “Family Scheduling Policy, accessed 2019 <http://www.ontariocourts.ca/ocj/family-court/family-scheduling-policy/>

Safety

“I know a lot of young people who want to go to court with 3,4,5 friends because it makes them feel safe because they don’t know who they are going to see. I’ve seen other young people in court texting buddies ‘so and so is here from this turf’ and then you’ve got to find an alternative to exit when you’re finished.”

– Frontline youth worker

What we heard

Frontline workers raised many concerns about young people’s safety in and around the courthouse. Young people from different neighbourhoods are often at court at the same time creating safety concerns when young people are coming to and going from court. Throughout our consultations frontline workers expressed serious concern about how safety will be managed at the new courthouse if young people from across the city are required to appear at the same location. While many participants believed that young people will be probably safe inside the courthouse, we did hear stories from youth about how easy it is for them to sneak weapons past security. We repeatedly heard that even if young people are be safe inside the courthouse, they will not be safe travelling to and from court.

In addition, participants expressed concern about young people being “preyed upon” outside the court by adults, and explained that vulnerable young people are already being spoken to outside court and “lured into trafficking.”

Many young people had concerns about appearing at a courthouse with adults and youth from across the city. During these conversations, we asked young people and frontline workers what could be done to mitigate these safety concerns. Many felt that it would be difficult to mitigate safety

issues and were concerned that the only response would be more police. One participant suggested creating “safety networks” and having groups of frontline workers available to escort youth coming to and from court. Some suggested that the nearby subway stop would become more dangerous.

“Well, for like, most of the youth that we work with. Most times youth have to carry some kind of weapon to feel safe in the situation that they’re in. When you go to court, you can’t do that. You have to go through a metal detector, right? They can’t bring in. They can’t bring what makes them feel safe.”

– Frontline youth worker

What the research says

There is very little research or data on this kind of safety risk in Canada. However, concerns about safety have been raised by others in the context of the new Toronto courthouse. On October 29, 2018, the *Toronto Star* published a story about a secret police report, which stated that the new Toronto courthouse will bring an “unprecedented number of violent criminals to a single location” and it will be “extremely difficult” to prevent gang-related violence in the vicinity of the new building.⁷⁸

IDEAS FOR ACTION

Safety issues are complex and it is hard to know in advance how to resolve them at the new Toronto courthouse. A youth safety committee of funders, government, justice professionals and frontline workers can be created to meet regularly to monitor and address safety issues and explore ideas like a “safety network”.

78. Jacques Gallant, “New Toronto courthouse will increase risk of gang violence downtown: secret police report,” *Toronto Star*, Monday October 29, 2018, <https://www.thestar.com/news/gta/2018/10/29/new-toronto-courthouse-will-increase-risk-of-gang-violence-downtown-secret-police-report.html>

Privacy

“I remember one of my conversations with my lawyer was in the basement on a bench and there were other people around us and it didn’t really feel confidential, but there was no other place. It would feel more comfortable if we have a nice room where we can talk and no one else around us entering and exiting.”

– Youth

What we heard

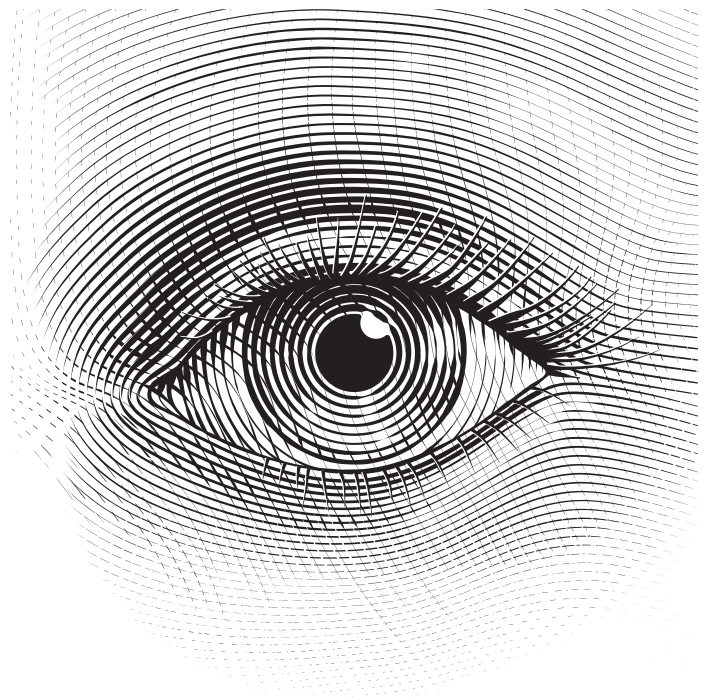
Justice-involved youth have enhanced privacy rights, but many participants during our consultations expressed concern about the lack of privacy in court. Young people felt uncomfortable being in court with people that they did not know and some young people expressed concern that people they did know would see them in court. For example, one frontline worker described a youth taking a picture of an accused young person in court and identifying him by last name on the docket.

“It would be better if it was a smaller courtroom with a judge...whoever has to speak to you, instead of a big room with a bunch of other youth who also have to get that information. They may know you too. That would be the one thing that would make it better.”

– Youth

“I would feel safer if the whole court was in a private room and it was not just me and a bunch of other people who were in the same position...all those people get to know all of your information and what’s happening and stuff like that.”

– Youth



What the research says

Canada has no single piece of legislation specifically protecting the privacy rights of children. However, Canada is bound by the *Convention of the Rights of the Child* and other various federal and provincial statutes as well as common law create privacy rights for young people in various contexts. In Ontario, this includes: the YCJA, the *Personal Information Protection and Electronic Documents Act* (PIPEDA), the *Privacy Act*, and Ontario’s *Freedom of Information and Protection of Privacy Act*, (FIPPA), which all recognize the different dimensions and actors involved in privacy, and protect the privacy rights of children.

Article 16 of the *Convention of the Rights of the Child* specifically protects children’s privacy. It states: “Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.”⁷⁹ The Supreme Court of Canada in the 2005 case of *R v. R.C.* explicitly refers to the *Convention* and its incorporation into the criminal justice system for youth. It wrote:

In creating a separate criminal justice system for young persons, Parliament recognized the heightened vulnerability and reduced maturity of young persons. In keeping with its international obligations, Parliament has sought as well to

*extend to young offenders enhanced procedural protections, and to interfere with their personal freedom and privacy as little as possible: See the United Nations Convention of the Rights of the Child...incorporated by reference in the YCJA.*⁸⁰

The YCJA protects the privacy of young persons who are accused or found guilty of a crime by keeping their identity and other personal information confidential. The protection of privacy is achieved by prohibiting the publication of information that would identify a young person’s involvement in the criminal justice system and by restricting access to their youth records.⁸¹

IDEAS FOR ACTION

Having bookable offices available for solicitor–client conversations in the youth justice section of the new Toronto courthouse would help defence counsel protect the privacy of their clients.

Privacy screens or other architectural divisions can be used in waiting areas so that youth and their families can wait in private without feeling vulnerable and exposed.

Better explanation of why court is open to the public and who else might be in the courtroom before a young person enters the court will help the young person understand what to expect.

Attention should be paid to what happens when high-profile cases are covered by the media at the courthouse to ensure that young people are entering and exiting the building are not identified.

79. UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, accessed 2019. Available at: <https://www.refworld.org/docid/3ae6b38f0.html>

80. *R v. R.C.*, 2005

81. Sections 110 to 129 of the YCHA provide various privacy protections

Getting the right intervention at the right time

“[The courts] are just referring to where they know. So let’s say you have a youth who has a theft charge, what is getting them to write an essay going to do? I have a kid who has to do his hours and I ask him what he does and he says he just sits there...How does that help him?”
– **Frontline youth worker**

What we heard

Participants had many concerns about young people getting the right intervention at the right time, and many believed that not all diversion programs are effective. Participants explained that when young people are offered diversion they may be asked to write an essay or complete community service hours, but these sanctions are not always meaningful and can be very disconnected from the young person’s needs and experiences. Participants described young people bouncing between different programs, but not completing any of them.

“We’ve had young people, where for whatever reason, they are not successful so they get referred back to court and to another program. They flop on that one. ‘Okay, we’re going to refer you to this one.’ And it becomes very difficult for the young person to take the process seriously because they have bounced between three different agencies and they are back to square one again.”

– **Frontline youth worker**

Participants also believed that “inappropriate referrals” are causing further delays.

“They don’t deal with the issue. They just put a Band-Aid over it. And that’s why kids are reoffending because the programming isn’t working.”

– **Frontline youth worker**

Participants explained that sometimes “inappropriate referrals” can lead to more serious outcomes:

“They told me to do EJS. They scheduled an appointment. I went and then she told me what to do. Like this is what you do if you want to not get charged or something. Follow these things, write an apology letter or write a report on something. It was random—I don’t know something about economy? But it had nothing to do with the situation. I just did it because I didn’t want to get charged. So I just did it to get it over with. But if it was serious, you know? Try to give me something, a task that will actually better me or show me what I did was wrong—I guess that would’ve helped...I did it the night before I probably didn’t care. It was so nonchalant. Just do this and come back next time.”

– **Youth**

“...Other times they will go through the entire process and then they are not successful and they have to start a new program all over again. Or sometimes more stringent outcomes come from this so if a young person isn’t successful with a certain program at it was informal diversion, it might turn into EJS...Or they might lose their opportunity entirely, if the Crown perceives that they are not engaged in the process.”

– **Youth**

More importantly, participants expressed concerns about young people being charged and brought into the court as a way to address underlying social, economic, or family issues. Participants explained that there is a perception that young people will receive services and treatment if they are involved in the court system.

What the research says

Some studies show that diversion can lead to “net-widening,”—an unintended rise of people encountering the justice system.⁸² Youth justice researchers and academics that have analyzed dozens of youth diversion programs found that the introduction of these programs in the 1970s and 1980s led to a significant increase of young people referred to Youth Court.⁸³ Instead of receiving warnings or cautions, young people were referred to the courts for diversion programming. Similar studies have indicated a link between the introduction of formal diversion programming and declines in police cautions and dismissals.⁸⁴ In Canada, an evaluation of the Toronto Police Service’s diversion program, the Youth Referral Program (YRP), discovered that the YRP did not substantially reduce the use of Youth Court.⁸⁵ The cases that were referred to YRP tended to involve minor crimes, were charges for theft under \$5,000 (e.g. shoplifting), and most of which were a first-time offence for the youth that were referred to the program. The majority of the Toronto police officers (77%) interviewed for the study stated that, in general, most of the cases referred to YRP would have otherwise received a caution.⁸⁶ 83% of the YRP youth interviewed believed that if they refused to participate in the program, the police would have taken them directly to court. Also 59% of the same youth thought that they would receive harsher penalties if they refused to participate in YRP. These findings suggest that many youth felt forced to participate in YRP for fear of retribution from police or from the Youth Court system.

Furthermore, research shows that youth who fail to meet the standards of their diversion program are often the recipients of harsher punitive sentences.⁸⁷ Diversion programs can involve substantial requirements and conditions that “match or exceed what a youth may face if placed on probation.”⁸⁸



IDEAS FOR ACTION

Improving assessment tools, creating a service map for effective referrals and utilizing the various existing resources will help to better identify young people’s specific context when they appear in court.

82. Jeremy Prichard. “Net-Widening and the Diversion of Young People from Court: A Longitudinal Analysis With Implications for Restorative Justice.” *Australian & New Zealand Journal of Criminology* 43, no. 1(2010): 112-29.

83. Scott H. Decker. “A Systemic Analysis of Diversion: Net Widening and Beyond.” *Journal of Criminal Justice* 13, no. 1(1985): 207-16.

84. Daniel P. Mears., Joshua J. Kuch, Andrea M. Lindsey, Sonja E. Siennick, George B. Pesta, Mark A. Greenwald, and Thomas G. Blomberg. “Juvenile Court and Contemporary Diversion.” *Criminology & Public Policy* 15, no. 3(2016): 953-81.; D. Wayne Osgood and Hart F. Weichselbaum. “Juvenile Diversion: When Practice Matches Theory.” *Journal of Research in Crime and Delinquency* 21, no. 1(1984): 33-56.

85. Jane B. Sprott, Anthony N. Doob, and Carolyn Greene. *An Examination of the Toronto Police Service Youth Referral Program*. (Toronto: Centre of Criminology, University of Toronto, 2004).

86. Ibid.

87. Kelly Richards. “Blurred Lines: Reconsidering the Concept of ‘Diversion’ in Youth Justice Systems in Australia.” *Youth Justice* 14, no. 2(2014): 122-39

88. Daniel P. Mears, Joshua J. Kuch, Andrea M. Lindsey, Sonja E. Siennick, George B. Pesta, Mark A. Greenwald, and Thomas G. Blomberg. “Juvenile Court and Contemporary Diversion.” *Criminology & Public Policy* 15, no. 3(2016), 964.

4.2 Ideas for action

1. Formalize a referral process at a young person's first point of contact in the courts (See the Turning Point Youth Services screening project pilot at 311 Jarvis).
2. Develop a plan amongst youth-serving organizations, funders and government for inter-agency collaboration and partnership.
3. Develop a service map of youth-serving organizations that support court-involved youth in Toronto.
4. Create opportunities for two-way education between frontline workers and justice professionals to better understand roles, process, resources and needs.
5. Conduct research into the barriers to mental health court diversion programs including race-based data.
6. Identify the strengths of youth mental health court that can be adapted to all Youth Court processes.
7. Provide training for justice professionals about youth mental health and youth mental health court.
8. Ongoing training for lawyers and other court actors on Indigenous issues, including Aboriginal Youth Court (See *Communicating Effectively with Indigenous Clients (2019)* and *Guide for Lawyers Working with Indigenous Peoples (2018)*).
9. Expand judicial use of Section 34 assessments to assess mental health or learning disability diagnoses, as two separate reports to protect privacy within the education system.
10. Conduct more research on culturally-specific programs and services to establish evidence for program funding.
11. Investigate the feasibility of a Gladue-model approach to understanding the impact of anti-Black racism on young people's lives prior to sentencing.
12. Provide training for justice professionals on anti-Black racism in the justice system in order to better identify and support Black youth.
13. Develop Crown, and Judicial youth justice specializations or long-term rotations into Youth Court with a process to build the capacity of new justice professionals.
14. Fund ongoing and expanded public legal education for youth in schools and communities.
15. Providing multiple formats of legal information and links to independent, trusted sources of reliable public legal information to strengthen young people's understanding and trust.
16. Use of plain-language in the courthouse, in conversation, in court proceedings and in print materials, to help young people and their parents understand processes.
17. Lawyers, court workers, and justice professionals can explaining each step of the process, likely outcomes, the time frames and the expectations, to build legal capability.
18. Develop a specialized youth panel at Legal Aid Ontario.
19. Formalize the Legal Aid Ontario intake support offered at 311 Jarvis to help young people with the legal aid appeal process.

20. Train lawyers in youth specific communication to ensure better explanation of decisions.
21. Explain the procedures, jargon, court rituals, rights and expectations of the young person in court—what to wear, how to behave, and how to address the court.
22. Facilitate parental and frontline workers' role in informal and social support, compliance with orders and building trust that the process and the results.
23. Communicate with young people about the reason and timing of each court appearances.
24. Schedule court by half days or by blocks of the day so that young people do not have to miss as much school.
25. Have dedicated Crowns to ensure timely review of cases, release of disclosure, and consideration of diversion.
26. Train everyone working in Youth Court on the effect of underlying trauma and trauma-informed practices.
27. Provide trauma-informed training for law enforcement, justice professionals and frontline workers.
28. Provide access to a youth mental health court worker or social worker to assist the young person and the court when trauma is identified within the court process.
29. Limit the number of contacts or court appearances a young person has with the justice system and focus on their strengths in sentencing and bail proceedings to minimize stigma.
30. Fund lunch voucher programs and assistance with travel to and from the courthouse.
31. Coordinate between youth-serving organizations to assist families with transportation or provide safe escorts for youth to get to the courthouse.
32. Provide healthy food options close to the youth court services.
33. Adopt a scheduling policy analogous to that used in family cases that assigns a single judge to a case to maintain consistency during the process.
34. Have dedicated Judges in Youth Court to improve consistency.
35. Ensure that legal aid lawyers have a basic knowledge of options for young people.
36. Facilitate early referral to mental health court and other specialized services.
37. Establish a youth safety committee of funders, government, justice professionals and frontline workers to monitor and address safety issues and explore ideas like a "safety network".
38. Have bookable offices available for solicitor-client conversations in the youth justice section of the courthouse to protect the privacy of young people.
39. Have privacy screens or other architectural divisions in waiting areas to allow youth and their families to wait in private.
40. Better explain why court is open to the public and who else might be in the courtroom.
41. Monitor high-profile cases at the courthouse to ensure that young people entering and exiting the building are not identified in the media.
42. Improve assessment tools and effective referrals to better identify young people's specific context and needs when they appear in court.

References

- Association for Psychological Science, "Sweet Future: Fluctuating blood glucose levels may affect decision making," *Science Daily* (2010). Available online at: www.sciencedaily.com/releases/2010/01/100125173444.htm
- Bala, Nicholas, and Sanjeev Anand. *Youth Criminal Justice Law*. 3rd ed. Toronto: Irwin Law, 2012
- Bala, Nicholas, and Claire Houston. *Article 12 of the Convention on the Rights of the Child and Children's Participatory Rights in Canada*. Report. Department of Justice Canada. Ottawa, 2015. Available online at: <https://www.justice.gc.ca/eng/rp-pr/other-autre/article12/Article12eng.pdf>
- Beazley, Doug. "A Jordan Rule for Minors?" *National Magazine*, March 13, 2019.
- Behnken, Monica P. *An Evaluation of the Nations's First Juvenile Mental Health Court for Delinquent Youth with Chronic Mental Health Needs*. PhD diss., Palo Alto University. Ann Arbor, MI: ProQuest Dissertation Publishing, 2008.
- Bernburg, Jon Gunnar, and Marvin D. Krohn. "Labeling, Life Chances, And Adult Crime: The Direct and Indirect Effects of Official Intervention in Adolescence on Crime in Early Adulthood*." *Criminology* 41, no. 4 (2003): 1287-318.
- Brousalis, Kristina. *A Framework for Ontario: Introducing a Working Legal Capability Matrix*. Report. Community Legal Education Ontario. Toronto, 2016.
- Children's Right to Be Heard in Canadian Judicial and Administrative Proceedings*. Report. Justice for Children and Youth. Toronto, ON: 2019. Available online at: http://www.plelearningexchange.ca/wp-content/uploads/2016/09/working-legal-capability-matrix.September-2016.final_.pdf
- Cipriani, Don. *Children's rights and the minimum age of criminal responsibility—a global perspective* Surrey: Ashgate Publishers, 2009.
- Clark, Scott. *Evaluation of the Aboriginal Youth Court*. Report. Aboriginal Legal Services. Toronto, ON, 2016. Available online at: <https://www.aboriginallegal.ca/assets/ayc-evaluation-final.pdf>
- "Clear Language and Design Tips." CLEO Connect: Training and Tools for Community Workers. Accessed 2019. <https://cleoconnect.ca/develop-legal-information/clear-language-and-design-tips/>
- Cohl, Karen, Julie Lassonde, Julie Mathews, Carol Lee Smith and George Thomson. *Trusted Help: The role of community workers as trusted intermediaries who help people with legal problems*, The Law Foundation of Ontario. Toronto, ON: 2018.
- Conrad, Christine, Candace Vena, and Angela Yip, "Racialized Populations and Mental Health Court Diversion: Background Paper, Communities of Interest (COI) for Racialized Populations and Mental Health and Addictions, Toronto, ON: 2018, 8 Available online at: http://eenet.ca/sites/default/files/2018/Racialized%20Populations%20and%20Mental%20Health%20Court%20Diversion%20Background%20Paper_0.pdf;
- Crosby, Shantel D. "Trauma-Informed Approaches to Juvenile Justice: A Critical Race Perspective." *Juvenile and Family Court Journal* 67, no. 1 (2016): 5-18.
- Davis, Krista, Michele Peterson-Badali, Brian Weagan and Tracey A. Skilling. "A Process Evaluation of Toronto's First Youth Mental Health Court." *Canadian Journal of Criminology and Criminal Justice* 52, no. 1 (2015): 159-188.
- Decker, Scott H. "A Systemic Analysis of Diversion: Net Widening and Beyond." *Journal of Criminal Justice* 13, no. 1 (1985): 207-16.
- Doob, Anthony N., and Carla Cesaroni. *Responding to Youth Crime in Canada*. Toronto, ON: University of Toronto Press, 2004.
- Drerup, Lauren C., Allison Croysdale, and Norman G. Hoffmann. "Patterns of Behavioral Health Conditions among Adolescents in a Juvenile Justice System." *Professional Psychology: Research and Practice* 39, no. 2 (2008): 122-28.
- Ericson, Richard V., and Patricia M. Baranek. *The Ordering of Justice: A Study of Accused Persons as Dependents in the Criminal Process*. Toronto: University of Toronto Press, 1982.
- Fitzgerald, Robin T., and Peter J. Carrington. "Disproportionate Minority Contact in Canada: Police and Visible Minority Youth." *Canadian Journal of Criminology and Criminal Justice* 53, no. 4 (2011): 449-86.
- Francis, Jenny. "Institutional Humanism and the Discourse of Disposability in the Lives of Criminalized Refugee Youth in Canada." *Race and Justice* (2018): 1-21.
- Gallant, Jacques. "Don't try youth offences at massive new Toronto courthouse, advocates say." *Toronto Star*. Monday, October 29, 2018. Available at: <https://www.thestar.com/news/gta/2018/10/29/dont-try-youth-offences-at-massive-new-toronto-courthouse-advocates-say.html>
- Greene, Carolyn, Jane B. Sprott, Natasha S. Madon, and Maria Jung. "Punishing Processes in Youth Court: Procedural Justice, Court Atmosphere and Youths Views of the Legitimacy of the Justice System." *Canadian Journal of Criminology and Criminal Justice* 52, no. 5 (2010): 527-44.
- Gruske, Carolyn. "Criminal and youth lawyers worried about new Toronto 'mega' court." *The Lawyers Daily*. Wednesday, May 23, 2018. Available online at: <https://www.thelawyersdaily.ca/articles/6500/criminal-and-youth-lawyers-worried-about-new-toronto-mega-court>
- Hamilton, A., and M. Sinclair. *Report of the Aboriginal Justice Inquiry of Manitoba*. Report. Aboriginal Justice Implementation Commission. Vol. 1-3. 1999.
- HairStory Rooted: A Firm Foundation for the Future of Black Youth in Ontario's Systems of Care*. Report. Ontario Child Advocate. Toronto, ON, 2019. Available online at: <https://oacarchives.files.wordpress.com/2019/03/hs-rooted-a-firm-foundation-for-black-youth.pdf>

- Improving the Health of Canadians 2008: Mental Health, Delinquency and Criminal Activity. Report. Canadian Institute for Health Information. Ottawa, ON, 2008. Available online at: https://secure.cihi.ca/free_products/mh_crime_full_report_apr11_08_e.pdf
- Jones, Brock. "YCJA Section 34: Medical and Psychological Reports," Crown Law Office-Criminal, December 9, 2014.
- Kellough, Gail, and Scot Wortley. "Remand for Plea. Bail Decisions and Plea Bargaining as Commensurate Decisions." *The British Journal of Criminology* 42, no. 1(2002): 186-210.
- Kutcher, Stanley, and Ainslie A. McDougall. "Problems with Access to Adolescent Mental Health Care Can Lead to Dealings with the Criminal Justice System." *Pediatrics and Child Health* 14, no. 1(2009): 15-18.
- Legal Aid Ontario. Accessed 2019. http://www.legalaid.on.ca/en/publications/fact_panelmemberships.asp
- McMurtry Roy R. and Marszewski, Eva E. "The new Toronto megacourthouse is not for youth," *Toronto Star* Opinion. Wednesday, May 2, 2018. Available online at: <https://www.thestar.com/opinion/contributors/2018/05/02/the-new-toronto-megacourthouse-is-not-for-youth.html>
- McLachlin, Beverley. "Legal Writing: Some Tools." *Clarity: Journal of the International Movement to Simplify Legal Language* 1, no. 51(2004): 5-9.
- Mears, Daniel P., Joshua J. Kuch, Andrea M. Lindsey, Sonja E. Siennick, George B. Pesta, Mark A. Greenwald, and Thomas G. Blomberg. "Juvenile Court and Contemporary Diversion." *Criminology & Public Policy* 15, no. 3(2016): 953-81.
- Ministry of Children and Youth Services. "Youth Mental Health Court Worker – Program Description," Ministry of Children and Youth Services – Youth Justice Services Division. 2013.
- Offence Based Statistics for All Criminal Cases in the Ontario Court of Justice: Provincial Overview January 2018 to December 2018. Report. Ontario Court of Justice. 2019. 1-68.
- Osgood, D. Wayne, and Hart F. Weichselbaum. "Juvenile Diversion: When Practice Matches Theory." *Journal of Research in Crime and Delinquency* 21, no. 1(1984): 33-56.
- Owusu-Bempah, Akwasi, and Scot Wortley. "Race, Crime and Criminal Justice in Canada." In *Oxford Handbook of Ethnicity, Crime and Immigration*, edited by Sandra Bucerius and Michael Tonry. Oxford University Press, 2014.
- Peterson-Badali, Michele, Stephanie Care, and Julia Broeking. "Young People's Perceptions and Experiences of the Lawyer-Client Relationship." *Canadian Journal of Criminology and Criminal Justice* 49, no. 3(2007): 375-401.
- Peterson-Badli, Michele, Sarah McCormick, Nina Vitopoulous, Krista Davis, Zohrah Haqanee, and Tracey A. Skilling. "Mental Health in the Context of Canada's Youth Justice System." *Canadian Criminal Law Review* 19, no. 1(2015): 5-20.
- Prichard, Jeremy. "Net-Widening and the Diversion of Young People from Court: A Longitudinal Analysis with Implications for Restorative Justice." *Australian & New Zealand Journal of Criminology* 43, no. 1(2010): 112-29.
- Rap, Stephanie. "A Children's Rights Perspective on the Participation of Juvenile Defendants in the Youth Court." *The International Journal of Children's Rights* 24, no. 1(2016): 93-112.
- Rap-Leurs, Stephanie Elaine. *The Participation of Juvenile Defendants in the Youth Court. A Comparative Study of Juvenile Justice Procedures in Europe*. PhD diss., Utrecht University. Utrecht: Utrecht University Repository, 2013.
- Richards, Kelly. "Blurred Lines: Reconsidering the Concept of 'Diversion' in Youth Justice Systems in Australia." *Youth Justice* 14, no. 2(2014): 122-39.
- Samuels, Kanika. *Examining the Utility of Pre-Charge Youth Diversion Programs: A Canadian Context*. PhD diss., University of Ontario Institute of Technology, 2015.
- Sateschi, Christine M., Michael G. Baugh, and Kevin Kim. "Assessing the Effectiveness of Mental Health Courts: A Quantitative Review." *Journal of Criminal Justice* 39, no. 2(2011): 12-20.
- Skilling, Tracey. "Adolescence: Emotional and Cognitive Development and Implications on Decision Making and Behaviour." 311 Open Bar Series. February 5, 2018.
- Spinazzola, Joseph, Alexandra Cook, Julian Ford, Cheryl Lanktree, Margaret Blaustein, Marylene Cloitre, Ruth DeRosa, Rebecca Hubbard, Richard Kagan, Joan Liautaud, Karen Mallah, Erna Olafson, and Bessel A. Van Der Kolk. "Complex Trauma and Dissociation in Children and Adolescents." *Psychiatric Annals* 35, no. 5(2005): 390-98.
- Sprott, Jane B., Anthony N. Doob, and Carolyn Greene. *An Examination of the Toronto Police Service Youth Referral Program*. Toronto: Centre of Criminology, University of Toronto, 2004.
- Sterns, David. "OBA President David Sterns writes to Minister Naqvi on youth criminal justice matters in Toronto." Ontario Bar Association, March 21, 2017 (by e-mail).
- Strang, Sabrina, Christina Hoerber, Olaf Uhl, Bethold Koletzko, Thomas F. Münte, Hendrik Lehnert, Raymond J. Dolan, Sebastian M. Schmid, and Soyung Q. Park. "Impact of Nutrition on Social Decision Making." *Proceedings of the National Academy of Sciences in the United States of America* 114, no. 25(2017): 6510-514.
- Tyler, Tom R. "Procedural Justice, Legitimacy, and the Effective Rule of Law." *Crime and Justice* 30 (2003): 283-357.
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"). Report. United Nations. New York, NY, 1985.
- Unruh, Deanne K., Jeff M. Gau, and Miriam G. Waintrup. "An Exploration of Factors Reducing Recidivism Rates of Formerly Incarcerated Youth with Disabilities Participating in a Re-Entry Intervention." *Journal of Child and Family Studies* 18, no. 3(2008): 284-93.
- Urbszat, Dax. "Youth Crime and Mental Health." Presentation to the Mississauga Police Force, Mississauga, July 2012.
- Vergara, Andrew T., Paul Kathuria, Kyler Woodmass, Robert Janke, and Susan J. Wells. "Effectiveness of Culturally Appropriate Adaptations to Juvenile Justice Services." *Journal of Juvenile Justice* 5, no. 2(2016): 85-103.
- Weijers, Ido, and Thomas Grisso. "Criminal Responsibility of Adolescents: Youth as Junior Citizenship." In *Reforming Juvenile Justice*, edited by Josine Junger-Tas and Frieder Dünkel, 45-67. New York, NY: Springer, 2009.
- Wintersteiger, Lisa. *Legal Needs, Legal Capability and the Role of Public Legal Education*. Report. Law for Life: Foundation for Public Legal Education. Toronto, 2015. Available online at: <http://www.plecanada.org/wp-content/uploads/2017/12/Legal-Needs-Legal-Capability-and-the-Role-of-PL-LE-Law-for-Life.pdf>
- Wortley, Scot. "A Northern Taboo: Research on Race, Crime, and Criminal Justice in Canada." *Journal of Criminology* 41, no. 2(1999): 261-74.
- Wortley, Scot. "Hidden Intersections: Research on Race, Crime and Criminal Justice in Canada." *Hidden Intersections: Research on Race, Crime and Criminal Justice in Canada* 35, no. 3(2003): 99-117.
- Zajac, Kristyn, Ashli J. Sheidow, and Maryann Davis. "Juvenile Justice, Mental Health, and the Transition to Adulthood: A Review of Service System Involvement and Unmet Needs in the U.S." *Children and Youth Services Review* 56(2015): 139-48.

Youth serving agencies in Toronto

Recruiting young people, families and frontline workers to participate in this project relied on the vast network of youth-serving agencies in Toronto, including:

Aboriginal Legal Services operates Aboriginal criminal, family and youth court worker programs in Toronto. The youth court workers are located at 311 Jarvis and also can go to other courts if necessary. Aboriginal Court Workers explain legal rights and obligations to their clients. They assist in securing legal counsel finding interpreters if they are needed, assist with pre-sentence reports, bail hearings, and referrals.

Associated Youth Services of Peel (AYSP) is a dynamic team of optimistic, compassionate professionals and volunteers dedicated to helping children, youth and families manage mental health and/or justice issues, realize their potential and contribute to their communities. AYSP has a number of justice programs, including: Attendance Centre, Extrajudicial Measures (EJM), Extrajudicial Sanctions (EJS), Youth Justice Committees (YJC), and Youth Mental Health Court Worker.

Central Toronto Youth Services (CTYS) 's Youth Justice Programs support young people who are serving a youth order and/or have matters before the Youth Court. YJ programs connect with youth who are facing a range of complex challenges.

East Metro Youth Services (EMYS) is an adolescent mental health and addictions centre, accredited by the Canadian Centre of Accreditation. EMYS operates a number of programs and services for youth, including the Youth in Transition Program (YIT), which helps support youth transitioning from the child welfare sector into adulthood, and the Youth Outreach Worker (YOW) program, which is an initiative for youth ages 12 to 24 and their families that meets youth where they are at and helps connect them to important services such as employment, housing, counselling, and food banks.

For Youth Initiative (FYI) is a non-profit organization that has served, inspired and advocated for thousands of teens and young adults in York South-Weston since 1995. It is a multi-service agency that provides year-round programs and services to local youth to meet their needs and empower them to reach their full potential. FYI's Youth Justice program services youth ages 12 to 17 who are in conflict with the law to provide them with holistic life supports.

Griffin Centre is an accredited non-profit, charitable, multi-service, mental health agency providing flexible and accessible services to youth, adults, and their families. Griffin Centre operates the Youth Mental Health Court Worker programs at the Finch and Scarborough Youth Courts.

John Howard Society of Toronto – HIPP is an African-Caribbean youth centred program for those between the age of 12 – 17 that focuses on helping young people build the skills to meet educational, employment and personal goals. HIPP strives to find proactive solutions to solve the problems of youth violence in neighbourhoods and families.

Justice for Children and Youth provides select legal representation to low-income children and youth in Toronto and vicinity. JFCY is a non-profit legal aid clinic that specializes in protecting the rights of those facing conflicts with the legal system, education, social service or mental health systems. JFCY gives summary legal advice, information and assistance to young people, parents (in education matters), professionals and community groups across Ontario.

Native Child and Family Services of Toronto (NCFST) strives to provide a life of equality, well-being, caring and healing for children and families in the Toronto Native Community. NCFST's youth programs are especially concerned with young Native people who are before the courts for a variety of reasons. NCFST's counselling and drop-in services are geared to engaging at-risk youth and providing opportunities for them to get on the right track. NCFST assists youth in successfully fulfilling court obligations and reintegrating into the community.

Peacebuilders International (Canada) is a nonprofit organization that provides restorative programs and services to young people and works towards effecting change in the justice and education systems. Peacebuilders runs a court-diversion program at 311 Jarvis.

Skylark is a leading Toronto-based charity dedicated to children, young people and their families struggling with complex mental health and developmental needs.

Springboard builds stronger communities by helping at risk and vulnerable youth and adults through critical transitions in their lives with a focus on community justice, employment and developmental disability services. Springboard delivers a number of youth justice programs in the community that, in keeping with the principles of the Youth Criminal Justice Act (YCJA), hold youth accountable for their behaviour through measures that are proportionate to the seriousness of the alleged offence.

St. Stephen's Community House offers several different services for troubled youth who find themselves involved with the criminal justice system, including Extrajudicial Sanctions and Court Support.

Supporting the East End Neighbourhoods (SEEN) Collaborative brings together six youth-serving agencies to strengthen the quality and responsiveness of services for youth in conflict with the law. SEEN is working to develop a framework for communities to better support young people by connecting them to services that decrease known risk factors for recidivism and help young people reach their full potential. The SEEN Collaborative includes: Central Neighbourhood House, Dixon Hall, Peacebuilders, Salvation Army, Toronto Kiwanis Boys and Girls Club, and Yonge Street Mission.

Tropicana Community Services is a Toronto-based multi-service organization that provides all youth, newcomers, people of Black and Caribbean heritage and others in need with opportunities and alternatives that lead to success and positive life choices.

Turning Point Youth Services is an accredited, non-profit multi-service agencies serving youth ages 12 to 24 and their families. Turning Point provides counselling, residential care, and support for youth in conflict with the law. Turning Point operates the Youth Mental Health Court Worker program at 311 Jarvis Youth Court.

West Scarborough Neighbourhood Community Centre (WSNCC) is a United Way Anchor Agency, serving over 14,000 people annually in Toronto's east end communities. WSNCC offers a number of programs to youth, including Drop-in Recreational Programs, Educational Support, Leadership, Employment Preparation and Youth Justice Programs.

WoodGreen Community Services – RITES of Passage WoodGreen Community Services offers Rites of Passage, a process for youth age 12 to 26 to explore, mature and grow into their full identity as young African-Canadians.

Youth Justice Network is a key link that keeps youth workers and youth agencies in tune with the latest updates around how to support youth facing barriers, with a key focus on youth in conflict with the law.

There is an ever-expanding network of youth serving agencies in Toronto. This is not a comprehensive list and some organizations may have inadvertently been left of this list.



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