



Working with Youth
with IDD Involved in
the Justice System:
Reflections from
Crowns and Defence
Counsel.

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Background

- Canada's *Youth Criminal Justice Act (YCJA)* states that measures taken against youth should “respond to the needs of young persons with special requirements” (Section 3(c)(iv)).
- Across various stages in the criminal process – arrest, diversion, bail, trial and sentencing – young people in Canada experience inequalities within the criminal justice system, barriers to their rights and access to justice (McMurtry & Curling, 2007).
- Youth with IDD are overrepresented within the criminal justice system (Marinos, et al., 2020; Jones, 2007), yet little is known about their interactions within the system in Canada.

Context – Phase 1

Objective(s):

1. Evaluate whether Canada's *Youth Criminal Justice Act* offers justice-involved young people with Intellectual and Developmental Disabilities (IDD) developmentally appropriate protections consistent with the *YCJA's* legislative directives.
2. Understand the lived experiences of youth with IDD involved in the youth justice system (from the perspective of justice professionals to start in Phase 1)

Context – Phase 1

- 26 in-depth, semi-structured individual interviews /short demographic surveys (90 mins +)
- Interviews conducted over Zoom
- Crown Attorney's and Defense Council from the GTA (and surrounding areas)

Preliminary Findings

1. Lawyers/Crown do not receive adequate instruction/training on working with youth with IDD(s)

2. Application of the YCJA varies by geographic location/jurisdiction.

3. The justice experience is “overwhelming” for youth.

4. Learning about a youth diagnosis

- Inconsistent/Unreliable
- Importance of assessment

1. Inadequate Instruction on Working with Youth with IDD

- Lack of formal training
 - Law Society of Ontario (12 hrs total)
- Majority state their training or knowledge has come from;
 - Lived experience (i.e. previous youth cases, family connections)
 - Previous work/education experience (i.e. social service work, children's aid, family services, pre-law)
 - Conferences/workshops attended
 - Self-directed learning (i.e. google or research)
- Training was specific to youth in conflict with the law, not on working with youth with IDD or vulnerable populations
- No information on programs available to them
- Experience in the field contributed to knowledge on IDD

2. Application of the YCJA varies by Geographic Location/Jurisdiction.

Dependent on Resource Availability

- GTA has greater resource availability, pairing this with the YCJA leads to various supports working on behalf of the child
- Catchment area's.
 - Poverty stricken areas or smaller communities
- Closure of fundamental resources (i.e. Syl Apps)

Dependent on Interpretation and Discretion

- Lack of specialization leads to discrepancies in upholding/implementing specific provisions in the YCJA
- Dependent on the Crown and Judge your working alongside and what region you find yourself within.
- 311 Jarvis and 2201 Finch – team dedicated to youth work

3. The Justice Experience is “Overwhelming” for Youth

- Process is overwhelming as youth have limited agency and difficulty in understanding responsibility.
 - Interplay between Crowns, defence/duty council, mental health court workers, and the court itself contribute to the process being overwhelming and difficult to understand
- Fear of the unknown is stressful
- Legalise can be problematic
- Length and time constraints of the system can be anxiety provoking
 - Recidivism.
- Setting can be intimidating and the process difficult to navigate
 - Use of Zoom in court has either benefited or hindered experience.
- Parent’s/guardians engagement in the process is either advantageous or disadvantageous

4. Learning of Diagnosis: Inconsistent/Unreliable

Dependent on previous case workers (i.e. Children's Aid Society) or parental presence

Identified upon meeting/interviewing/observing the individual that there is a need for assessment (i.e. mannerisms, triggers)

Unless the disability is prominent/noticeable might not be made aware of a disability

Formal diagnosis may be difficult to come by due to financial means— section 34 assessment ordered. (Time constraints and lengthy)

Police reports.

Next Steps

- Findings highlight important viewpoints from the lived experiences of justice professionals.
- Themes point to issues that impact young people with IDD directly and highlight the important role that justice professionals can play in advocating for young people involved in the youth justice system.
- Phase 2 will focus on understanding the viewpoints from youth with IDD who are involved in the youth justice system

Questions?

