

CANADA / JUDGMENT

R. v. J.C.P.-B

2023 BCSC 2307

COURT

Supreme Court of British Columbia

DECIDED

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IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. J.C.P.-B.,

2023 BCSC 2307

Date: 20231026

Docket: X084150-2

Registry: New Westminster

Rex

v.

J.C.P.-B.

Restriction on Publication: A publication ban has been automatically imposed under s. 110(1) of the Youth Criminal Justice Act restricting the publication of information that would identify a young person referred to in this judgment by the initials J.C.P.-B. This publication ban applies indefinitely, unless the information is published by that young person who is protected by this ban or the court has ordered publication.

Restriction on Publication: A publication ban has been automatically imposed under s. 111(1) of the Youth Criminal Justice Act restricting the publication of information that would identify a young person, referred to in this judgment by the initials J.C.P.-B., as having been a victim or witness. This publication ban applies indefinitely, unless the information is published by that young person who is protected by this ban or the court has ordered publication.

Before: The Honourable Madam Justice Ker

Oral Reasons for Sentence

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Place and Date of Hearing:

New Westminster, B.C.

May 8, 2023

September 14 and 15, 2023

Place and Date of Judgment:

New Westminster, B.C.

October 26, 2023

- [1] These reasons for sentence were delivered as oral reasons. They have since been edited for distribution.

Introduction

- [2] J.C.P.-B. is before the Court for sentencing on Indictment X084150. On May 8, 2023, he entered a guilty plea to one count of manslaughter in relation to the August 7, 2019, death of Carson Crimeni. At the time of his death, Carson was 14 years old and J.C.P.-B. was 17 years old.

Circumstances of the Offence

- [3] The cause of Carson's death was acute MDMA intoxication.[1]
- [4] In the early afternoon of August 7, 2019, Carson and a friend were travelling on a bus to the Walnut Grove skatepark in Langley, BC. Carson asked his friend to contact J.C.P.-B., then a known drug dealer, so that Carson could buy some MDMA. The friend texted J.C.P.-B., advising that Carson wanted to buy "a cap for ten", meaning 0.1 grams of MDMA for \$10. J.C.P.-B. and Carson were put in touch by Carson's friend.

- [5] J.C.P.-B. sold MDMA to Carson on two occasions that afternoon. Although Carson thought he was purchasing a total of about three caps of MDMA, J.C.P.-B. sold him in excess of one gram or ten caps of MDMA. Carson ingested all of it over the course of that afternoon /evening when he made the two purchases of MDMA from J.C.P.-B. His behaviour became erratic. His physical appearance and vital signs changed through the course of the afternoon and evening.
- [6] Although there were initially a number of young people in the skatepark area who witnessed how Carson was reacting to the exceedingly high dosage of MDMA, no one intervened to assist or to call 9-1-1 for the obvious distress that Carson was experiencing. In what some might describe as behaviour that is the 21st century equivalent of a scene from the Lord of the Flies, several of the young people who saw Carson in his extremely intoxicated state, instead of assisting, took videos of Carson and shared them on social media.
- [7] I pause here to note that there is no suggestion that J.C.P.-B. engaged in the videoing of Carson in his extremely intoxicated state. Nevertheless, J.C.P.-B. is the person who provided the MDMA to Carson. He is the person who overserved this child on two occasions on that fateful day. He did not intervene and seek medical assistance for Carson.
- [8] At 10:32 p.m., a different group of young people discovered Carson near the baseball diamond. He was on the ground in the ditch by a fence. Carson was in obvious distress. These young people had the presence of mind to call 9-1-1. At 10:44 p.m., the police arrived and at 10:51 p.m., an ambulance arrived. Carson was immediately transported to Ridge Meadows Hospital, arriving there at 11:13 p.m. Carson's vital signs throughout indicated he was in significant medical distress. His temperature was about 42° Celsius. A number of interventions and treatments were provided, but Carson went into cardiac arrest. Life-saving efforts by the emergency room physicians failed and he was pronounced dead at 11:52 p.m.
- [9] While J.C.P.-B. may not have intended to kill Carson, his conduct in overserving Carson with a prodigious amount of MDMA was criminally reckless. J.C.P.-B. is responsible for Carson's death. He will have to live with this fact for the rest of his life.
- [10] Carson's family will spend the rest of their days deprived of the love and strong bond they had with Carson.
- [11] This case is truly heartbreaking and tragic, no matter the perspective from which it is viewed.
- [12] The circumstances of the offence are outlined in far greater detail in an agreed statement of facts ("ASF")[2]. I do not propose to outline the details any further, save for some aspects that relate to J.C.P.-B.'s acknowledgment of involvement in this offence. I will deal with that element of the facts when I address his personal circumstances. Before doing so, however, I will first briefly outline the positions of counsel and the impact this offence has had on Carson's family.

Positions of Counsel

- [13] The Crown and defence agree that a custody and supervision order pursuant to s. 42(2)(o) of the Youth Criminal Justice Act, S.C. 2002, c.1 [YCJA] of three years' duration is the appropriate sentence to impose. Three years is the maximum sentence available under the YCJA. Where they part company is over the length of the custodial portion of the sentence. The Crown seeks to have the custodial portion set at two years with a one year conditional supervision order in the community. The defence, on the other hand, seeks to have the custodial portion set at 12-18 months, with the balance served under conditional supervision in the community.
- [14] The parties acknowledge the Court has the discretion to impose any length of custody it deems fit, provided it fulfils the purpose, principles, and objectives of sentencing young persons under the YCJA. No proposed conditions for the conditional supervision order were outlined as, pursuant to s. 105 of the YCJA, the conditions of that order are determined by the Youth Justice Court at least one month before the expiry of the custodial portion of the youth sentence.
- [15] While the YCJA places significant restrictions on the availability of custodial sentences for young persons, s. 39(1) of the YCJA provides four "gateways" to a custodial sentence: see R. v. C.D.; R. v. C.D.K., 2005 SCC 78 at para. 19.
- [16] Section 39(1) of the YCJA provides:
- 39 (1) A youth justice court shall not commit a young person to custody under section 42 (youth sentences) unless
- (a) the young person has committed a violent offence;
 - (b) the young person has previously been found guilty of an offence under section 137 in relation to more than one sentence and, if the court is imposing a sentence for an offence under subsections 145(2) to (5) of the Criminal Code or section 137, the young person caused harm, or a risk of harm, to the safety of the public in committing that offence;
 - (c) the young person has committed an indictable offence for which an adult would be liable to imprisonment for a term of more than two years and has a history that indicates a pattern of either extrajudicial sanctions or of findings of guilt or of both under this Act or the Young Offenders Act, chapter Y-1 of the Revised Statutes of Canada, 1985; or
 - (d) in exceptional cases where the young person has committed an indictable offence, the aggravating circumstances of the offence are such that the imposition of a non-custodial sentence would be inconsistent with the purpose and principles set out in section 38.
- [17] J.C.P.-B.'s conduct in committing this offence is captured by the violent offence provision of s. 39(1).
- [18] Section 2 of the YCJA defines "violent offence" as follows:

violent offence means

- (a) an offence committed by a young person that includes as an element the causing of bodily harm;
- (b) an attempt or a threat to commit an offence referred to in paragraph (a); or
- (c) an offence in the commission of which a young person endangers the life or safety of another person by creating a substantial likelihood of causing bodily harm.

[19] J.C.P.-B.'s conduct in this case meets the definition of "violent offence", as contained in both ss. 2(a) and (c) of the YCJA. And so, a custodial sentence is an available sanction and it is the only sanction that is appropriate in the circumstances, bearing in mind the purpose, principles, and objectives of sentencing engaged by the YCJA.

Impact of the Offence on the Victims

[20] The youth and adult criminal justice systems are premised on entirely different values and principles. As the majority of the Supreme Court of Canada noted in *R. v. S.J.L.*, 2009 SCC 14:

[64] . . . The creation of this system was based on recognition of the presumption of diminished moral blameworthiness of young persons and on their heightened vulnerability in dealing with the justice system (*D.B.*, at paras. 41 et 127; *R. v. L.T.H.*, 2008 SCC 49, [2008] 2 S.C.R. 739, at paras. 3 and 93; *R. v. R.C.*, 2005 SCC 61, [2005] 3 S.C.R. 99, at para. 41; *R. v. Z. (D.A.)*, [1992] 2 S.C.R. 1025; P. J. Harris and M. H. Bloomenfeld, *Youth Criminal Justice Act Manual* (2003), vol. 2, Part Ten: Adult Sentence Hearing Cases, at p. 10-6.1; "Historically, transfer was predicated on the existence of a justice system for youth that was wholly separate and distinct from that applicable to adults": P. Platt, *Young Offenders Law in Canada* (2nd ed. 1995), at p. 235).

. . .

[75] Finally -- and this comment concerns the overall approach to youth justice -- the effect of the objectives of the Act is that the judge is asked to favour rehabilitation, reintegration and the principle of a fair and proportionate accountability that is consistent with the young person's reduced level of maturity. As for the adult criminal justice system, it places greater emphasis on punishment. . . .

[21] While it may be trite law that the YCJA sentencing regime is "completely different from that established under the Criminal Code" (see *R. v. Wobbes*, 2008 ONCA 567 at para. 73; see also YCJA, s. 50(1)), there are some aspects of the Criminal Code, R.S.C. 1985, c. C-46 [Code] sentencing provisions incorporated into the YCJA. Specifically, s. 50(1) incorporates s. 722 of the Code into the YCJA, and thereby permits the use of victim impact statements for the purpose of determining the sentence to be imposed on the offender in respect of the offence. Victim impact statements also provide a means of describing the harm done to or loss suffered by the victims arising from the commission of the offence. The very purpose of

victim impact statements is to give victims a voice in the criminal justice process, to provide a way for victims to confront offenders with the harm they have caused, and to ensure that courts are informed of the full consequences of the offence: see *R. v. V.W.*, 2008 ONCA 55 at para. 28.

- [22] In this case, the Court has received victim impact statements from Carson's family: his father, grandmother, grandfather, aunt, brother, and half-sister, as well as the celebration of life memorial order of service from Carson's funeral (collectively Exhibits #3 through #5).
- [23] They are all victims as the term is defined in s. 2 of the Code. The raw pain, anguish, and sorrow Carson's family has experienced with his needless death leaps off the pages of the victim impact statements. They struggle to understand how this offence could have happened and find it impossible to come to terms with it. Their grief, individually and collectively, was palpable in their victim impact statements and through their presence at the sentence hearing for this case.
- [24] All of Carson's family have struggled with psychological issues since his death: depression, extreme sadness, withdrawing from society, anger, disbelief. The harm and loss they have suffered as a result of Carson's death have caused them to lose hope in society and humanity. Such feelings are completely understandable, particularly in the circumstances of this case.
- [25] Carson was described in the following way in Exhibit #5:
- You loved to make everyone laugh. You were goofy, you were silly, a jokester and a clown. You wanted recognition and friendship above all else. You wanted to belong.
- [26] Poignant words indeed, in light of the circumstances of Carson's tragic death. Trying to belong with the other kids by hanging out and doing drugs, except he did not know that the amount of drugs he received from J.C.P.-B. and ingested was at least three to four times the amount he had thought he was purchasing. What a tragedy. What a waste.
- [27] As Brock Jones, Emma Rhodes & Mary Birdsell note in *Prosecuting and Defending Youth Criminal Justice Cases*, 2nd ed (Toronto: Emond Montgomery Publications Limited, 2019) at 256-257:

Victim impact statements are often powerful, emotionally charged documents that painfully detail the harm caused and the loss suffered by victims of an offence. While they play an important role in the youth justice process, they must not be used inappropriately. The fundamental purposes and principles of sentencing for young people--including recognition of their reduced level of maturity and diminished moral blameworthiness--must remain at the forefront of every sentencing decision. A judge must always exercise restraint, even in cases where a victim provides a highly moving narrative of the consequences of the young person's actions. As succinctly put by the New Brunswick Court of Appeal, the "ultimate objective is dry-eyed justice according to the law."

- [28] Pursuant to s. 722 of the Code, I have taken into account the victim impact statements that were filed. They establish how profoundly many lives have been shattered by the senseless death of Carson. Similar to the situation in *R. v. Poepl*, 2021 BCSC 725, and many other cases, the impact of the offence on the Crimeni and G. families is sudden, tragic, far-reaching, and unending. The family was a tightly-knit one, at one moment living in relatively close proximity to each other and the next, as a result of this senseless overdose death, a mother and father have lost a beloved son, grandparents have lost an adored grandson, a brother and sister have lost a cherished sibling.
- [29] By all accounts, Carson Crimeni was the centre of the universe for everyone who filed a victim impact statement, and no doubt for many others. The super nova extinguishment of this bright star in their galaxy through his death has sucked everyone Carson knew into a black hole of unending grief, a giant chasm of emptiness and sadness.

Circumstances of the Offender

- [30] J.C.P.-B. is now 21 years old. He was 17 years old when he committed this offence. His parents separated when he was about one year old. He lives with his mother, older brother, and younger sister out in the valley of the Lower Mainland. At the time of the offence, J.C.P.-B. and his family lived in Langley, BC.
- [31] Due to the high-profile nature of this offence, the anger and outrage of the community over the offence, the threats to the offender and his safety, and the high level of media attention that the case attracted in the immediate aftermath of the offence, J.C.P.-B.'s mother eventually felt it was necessary to sell her home and to relocate her family to another community. After the offence, J.C.P.-B. went to live with his father in a neighbouring province for a period of time, returning to BC in late 2020 or early 2021.
- [32] J.C.P.-B.'s background, history, and his psychological, psychosocial, and psychiatric background have been comprehensively and exhaustively reviewed in four reports that were prepared for this sentencing[3]:
- a) A presentence report ("PSR") prepared by a probation officer and filed August 21, 2023;
 - b) A detailed forensic psychosocial assessment prepared by a community nurse clinician and filed August 16, 2023;
 - c) A detailed psychological assessment prepared by Dr. McBride, a registered psychologist, filed August 16, 2023; and
 - d) A detailed psychiatric secondary assessment prepared by Dr. Stevenson, a forensic psychiatrist, filed August 16, 2023.
- [33] I have read all the reports and counsel extensively reviewed the salient features of them during their submissions.

- [34] By all accounts, J.C.P.-B. grew up in a relatively stable and supportive home, free of any sort of abuse. He was diagnosed with ADHD at a young age. His academic performance in elementary and high school was not stellar, but he was good in math and art. Insofar as the manifestation of ADHD symptomology is concerned, it would be fair to say that he started to exhibit behavioural issues in grade one, being inattentive and disruptive. By grade four, he was demonstrating oppositional features. He struggled in some subjects and, as noted, excelled in math and art through grades eight to ten. However, he withdrew from high school in grade ten. He transferred to an alternate school in grade 11, but eventually stopped attending.
- [35] While in high school, J.C.P.-B. was very actively involved in roller hockey and was well liked by his peers. Unfortunately, in early January 2017, shortly after he turned 15 years old, J.C.P.-B. was the victim of a vicious physical assault. He was out drinking alcohol with a large group of friends. He left the group with two acquaintances, who then attacked him, beating and kicking him in the head, and leaving him alone unconscious in the snow. Friends found him later and he was taken to hospital.
- [36] As a result of this attack, J.C.P.-B. sustained a closed-head injury and possibly a concussion. The attack was a significant turning point in his life. He experienced, and others, especially his mother, noticed significant challenges with inattention, impulsivity, outbursts of anger, poor memory and comprehension. J.C.P.-B.'s ability to understand and process verbal and visual information deteriorated significantly. After the assault, he also experienced recurring nightmares and sleep deprivation.
- [37] J.C.P.-B.'s follow-up treatment and diagnosis as to whether he actually sustained a traumatic brain injury or concussion were complicated by a reticence to engage in treatment, as well as his pre-existing ADHD, his developed substance use disorder, the trauma of the attack, and other factors.
- [38] The attack was extremely traumatic for J.C.P.-B. He experienced significant anxiety, flashbacks, and panic attacks following the assault. To cope, he self-medicated with psychedelics, marihuana, and LSD as they helped manage his anxiety.
- [39] Although J.C.P.-B. consumed alcohol in his pre and early teen years, his drug consumption did not really start until after his head injury. To that end, it would be fair to characterize the attack on J.C.P.-B. as a life-altering event that contributed to a significant change in behaviour and lifestyle. J.C.P.-B.'s substance use history is well-documented in the four reports that were filed (Exhibit #2). In summary, he started drinking when he was young. He first began using marihuana at 13 years of age. He may have been experimenting with hallucinogenic drugs before his head injury, but following his head injury in January 2017, his consumption of illicit drugs, both in variety and volume, increased significantly. In addition to marihuana, J.C.P.-B. experimented with nitrous oxide, cocaine, crack, benzodiazepine, codeine, and Oxycontin.

- [40] He began using psilocybin mushrooms after the January 2017 assault, and that progressed to heavy daily use by the age of 17. He also started to use LSD or acid quite heavily when he was 17 and MDMA when he was 16 years old. Needless to say, the import of this consumption appears to be that J.C.P.-B. was engaged in a dangerous self-medication regime, trying to cope with the trauma of the attack on him.
- [41] Given his ADHD, a diagnosis of oppositional defiant disorder, a largely untreated head injury, and residual psychological trauma from the assault, it can be said that this toxic mix was a recipe for disaster. Indeed, after the assault upon him, J.C.P.-B. slid into the role of dealing drugs between 15 and 17 years of age. It is within this context that the offence was committed. This is not an excuse, but certainly provides considerable context and an explanation to the events of August 7, 2019.
- [42] Following this offence, J.C.P.-B. quit dealing drugs and stopped taking illicit drugs "cold turkey".
- [43] In addition to stopping his drug dealing and illicit substance consumption after this offence, J.C.P.-B. also moved out of province to be with his father and grandparents. While there, he upgraded his education and is about three credits away from receiving his GED. He was also employed at a local restaurant in his father's community and, according to his uncle, was well liked by his coworkers and former employer.
- [44] Since March 2021, J.C.P.-B. has been employed full-time by a landscaping company in his community. A letter from his employer confirms this and describes J.C.P.-B. as the hardest and most reliable employee he has at the company. The employer, who is aware of this offence and J.C.P.-B.'s circumstances, has provided an extremely positive letter of support that, in my view, assists in establishing that J.C.P.-B. has managed to turn his life around and is striving to be prosocial, helping his community, especially the more elderly members, through various volunteer initiatives he engages in with his employer.
- [45] There are eight other letters of support.[4] Seven are from J.C.P.-B.'s family members. The eighth is from a family friend who works in the correctional system, as does J.C.P.-B.'s mother. All the letters of support acknowledge that what J.C.P.-B. did in terms of this offence is tragic and heartbreaking. They uniformly note the change in J.C.P.-B.'s behaviour pre and post the assault committed upon him in January 2017 and the shift back to being a more prosocial, contributing, and engaged member of the community since the commission of this offence. The support of family, friends and significantly his current employer is an extremely positive development.
- [46] To be sure, J.C.P.-B. has difficulties expressing himself, but that may be due to a variety of factors, including the previous diagnosis of ADHD, oppositional defiant disorder, depression, and the overlay of some sort of residual effects from the brain injury sustained in the attack of January 2017.

- [47] The four reports filed on this sentencing hearing are not what I would characterize as glowing; indeed, they seem to be guarded in terms of risk assessment for the future, and somewhat negative as to J.C.P.-B.'s level of insight into this offence.
- [48] J.C.P.-B. claimed to the psychologist that he did not give Carson any more MDMA than he wanted. This is an unfortunate comment, as it is at odds with other objective evidence and inconsistent with the ASF wherein it is fundamentally apparent that J.C.P.-B. gave Carson far more MDMA than he was seeking. Significantly, Carson "parachuted" the second dose, meaning he swallowed the whole dose at one time.
- [49] I place only limited weight on J.C.P.-B.'s initial misleading of the police as to the amount of drugs he gave to Carson when he went to the RCMP detachment the day after the offence. While obviously it would have been better to have come fully clean with the police as to the amount provided, in my view, the more important point was that J.C.P.-B. came forward and admitted responsibility, and thereby assisted in focusing the investigation to who was responsible for Carson's death.
- [50] More troubling is the psychologist documenting that J.C.P.-B. appeared to have little insight into why the community was so upset by this offence. Suffice to say, Dr. McBride's assessment in paras. 66 and 83 of her report is cause for some concern. Although, it may well be that with some further reflection, developing maturity, and some counselling, J.C.P.-B. may come to understand how wrong the totality of everyone's behaviour was on that fateful day--not just J.C.P.-B. but also the other young people who seemed to think how Carson was behaving was a source of entertainment that should be videotaped and shared on social media, rather than stepping in to help someone in obvious physical distress.
- [51] The psychologist, Dr. McBride, places J.C.P.-B. at a moderate to high risk for general reoffence based on a lack of emotional depth, failure to accept responsibility, a high need for stimulation, lack of empathy, poor frustration tolerance, and apparent egocentricity.
- [52] The psychiatrist, Dr. Stevenson, places J.C.P.-B. at a moderate risk for general recidivism over the long term, with the risk somewhat diminished if he has been prosocial, employed, future oriented, largely abstinent from substances, resolved to avoid antisocial influences, and open to counselling.
- [53] Both Dr. McBride and Dr. Stevenson appeared troubled by the suggestion of a driving offence in 2022. However, J.C.P.-B. has no criminal record, nor was there any suggestion that there have been any charges against him since the events of August 7, 2019.
- [54] The overall clinical assessment of J.C.P.-B. is thus guarded. While the assessors were aware of J.C.P.-B.'s current employment, it appears they were not aware of the contents of the employer's letter of support and his observations of J.C.P.-B. over the past two years of working very closely with him.

- [55] Moreover, both Dr. McBride and Dr. Stevenson appeared to treat the lack of court-ordered conditions of release as a negative in the sense that it did not provide other collateral information on J.C.P.-B.'s performance, autonomy, and abilities. I place little weight on this aspect of their opinions, as it is abundantly clear on the totality of the evidence that J.C.P.-B. has performed well on bail over the last four years, and seemingly has turned his life around.
- [56] Insofar as insight, remorse, and attitude towards the offence are concerned, it would be fair to conclude that J.C.P.-B.'s insight and remorse are evolving. Dr. Stevenson noted that J.C.P.-B. expressed some degree of empathy for the victim and his family, as well as remorse and regret for his role in bringing about the tragedy, though these were somewhat dispassionately expressed during the psychiatric interview. Though professing responsibility to a degree, J.C.P.-B.'s perspective also reflected to Dr. Stevenson defensiveness and rationalization, rather than an unequivocal acceptance of blame or a recognition of the serious harm that substance misuse can cause to others.
- [57] Given the limited timeframe for the assessment interviews, three hours for Dr. McBride and 90 minutes for Dr. Stevenson, coupled with the broad scope of the interviews, these circumstances, including J.C.P.-B.'s difficulties with expressing himself, may well have provided a sub-optimal setting for J.C.P.-B. to fully express his remorse to two strangers. And while J.C.P.-B.'s family may carry certain biases or predispositions towards him, they nevertheless note the sustained, positive changes J.C.P.-B. has made since the offence and the remorse he has exhibited towards them. Indeed, as J.C.P.-B.'s father notes:

This young man is never far from [J.C.P.-B.]'s thoughts, and him and his family are not far from our thoughts either. For the remainder of [J.C.P.-B.]'s life, [J.C.P.-B.] and Carson will be forever connected by this tragic and needless loss.

- [58] J.C.P.-B. provided his own letter to the Court and read it out.[5] J.C.P.-B. unequivocally accepts responsibility for his acts and unreservedly has expressed profound remorse for this offence. As a further measure of remorse, J.C.P.-B. expressed to the probation officer who prepared the PSR a willingness to engage in a restorative justice process. I understand Carson's grandfather expressed a similar inclination to the probation officer. However, as is his right, Mr. Crimeni has withdrawn that offer. Perhaps things will change as more time passes.
- [59] I can say this, if both sides are willing to engage in a restorative justice program, I have no doubt Community Corrections would help facilitate this. It takes great courage on the part of all parties to engage in such a process. I am of the view that it would be appropriate, if the parties feel open to engaging in it. But it is not something the Court can impose or direct in the absence of consent from both sides.

- [60] To sum up, on the characteristics of the offender, J.C.P.-B. had a supportive upbringing, but had his own difficulties with ADHD and some oppositional behaviour. However, there was nothing really out of the ordinary for a teenage boy, until he was attacked in January 2017, just after he turned 15. That was a life-altering event that set J.C.P.-B. on a far darker trajectory that led him into significant drug use and drug dealing and brought him to the commission of this offence with its heart-breaking and tragic consequences.
- [61] J.C.P.-B.'s realization and acceptance that he is responsible for Carson Crimeni's death has been another watershed moment in his young life. By all accounts, he has turned his life around. He has walked away from dealing and using drugs. He is employed full-time and has an employer who considers him to be an invaluable and trusted member of his business.
- [62] J.C.P.-B. certainly has worked very hard to make these changes and he has more work to do in terms of fully understanding the gravity of his intentional risk taking. I have no doubt he will get there, as he continues to mature and develop.

The Governing Legal Principles of Sentencing Under the YCJA

- [63] I turn now to an examination of the governing legal principles of sentencing under the YCJA. When sentencing an offender for an offence committed while still a young person, as J.C.P.-B. was at the time, a sentencing judge must adhere to the provisions of ss. 3 and 38-42 of the YCJA. Section 3 describes the broad principles that govern judges in the sentencing of young persons:

3 (1) The following principles apply in this Act:

- (a) the youth criminal justice system is intended to protect the public by
 - (i) holding young persons accountable through measures that are proportionate to the seriousness of the offence and the degree of responsibility of the young person,
 - (ii) promoting the rehabilitation and reintegration of young persons who have committed offences, and
 - (iii) supporting the prevention of crime by referring young persons to programs or agencies in the community to address the circumstances underlying their offending behaviour;
- (b) the criminal justice system for young persons must be separate from that of adults, must be based on the principle of diminished moral blameworthiness or culpability and must emphasize the following:
 - (i) rehabilitation and reintegration,
 - (ii) fair and proportionate accountability that is consistent with the greater dependency of young persons and their reduced level of maturity,

- (iii) enhanced procedural protection to ensure that young persons are treated fairly and that their rights, including their right to privacy, are protected,
- (iv) timely intervention that reinforces the link between the offending behaviour and its consequences, and
- (v) the promptness and speed with which persons responsible for enforcing this Act must act, given young persons' perception of time;
- (c) within the limits of fair and proportionate accountability, the measures taken against young persons who commit offences should
 - (i) reinforce respect for societal values,
 - (ii) encourage the repair of harm done to victims and the community,
 - (iii) be meaningful for the individual young person given his or her needs and level of development and, where appropriate, involve the parents, the extended family, the community and social or other agencies in the young person's rehabilitation and reintegration, and
 - (iv) respect gender, ethnic, cultural and linguistic differences and respond to the needs of aboriginal young persons and of young persons with special requirements;

[64] As noted earlier, a separate criminal justice system for youths as distinct from the adult criminal justice system is premised on the recognition of the presumption of diminished moral blameworthiness of the young person and on their heightened vulnerability in dealing with the justice system; the objectives of rehabilitation, reintegration, and fair and proportionate accountability, consistent with the young person's reduced level of maturity, receive primary but not exclusive emphasis under the YCJA: see S.J.L. at paras. 64, 75.

[65] More specific to sentencing in particular, s. 38(1) of the YCJA comprehensively articulates the purpose and principles of sentencing young persons:

Purpose

38 (1) The purpose of sentencing under section 42 (youth sentences) is to hold a young person accountable for an offence through the imposition of just sanctions that have meaningful consequences for the young person and that promote his or her rehabilitation and reintegration into society, thereby contributing to the long-term protection of the public.

Sentencing principles

- (2) A youth justice court that imposes a youth sentence on a young person shall determine the sentence in accordance with the principles set out in section 3 and the following principles:
 - (a) the sentence must not result in a punishment that is greater than the punishment that would be appropriate for an adult who has been convicted of the same offence committed in similar circumstances;

- (b) the sentence must be similar to the sentences imposed in the region on similar young persons found guilty of the same offence committed in similar circumstances;
- (c) the sentence must be proportionate to the seriousness of the offence and the degree of responsibility of the young person for that offence;
- (d) all available sanctions other than custody that are reasonable in the circumstances should be considered for all young persons, with particular attention to the circumstances of aboriginal young persons;
- (e) subject to paragraph (c), the sentence must
 - (i) be the least restrictive sentence that is capable of achieving the purpose set out in subsection (1),
 - (ii) be the one that is most likely to rehabilitate the young person and reintegrate him or her into society, and
 - (iii) promote a sense of responsibility in the young person, and an acknowledgement of the harm done to victims and the community;
- (e.1) if this Act provides that a youth justice court may impose conditions as part of the sentence, a condition may be imposed only if
 - (i) the imposition of the condition is necessary to achieve the purpose set out in subsection 38(1),
 - (ii) the young person will reasonably be able to comply with the condition, and
 - (iii) the condition is not used as a substitute for appropriate child protection, mental health or other social measures; and
- (f) subject to paragraph (c), the sentence may have the following objectives:
 - (i) to denounce unlawful conduct, and
 - (ii) to deter the young person from committing offences.

Factors to be considered

- (3) In determining a youth sentence, the youth justice court shall take into account
 - (a) the degree of participation by the young person in the commission of the offence;
 - (b) the harm done to victims and whether it was intentional or reasonably foreseeable;
 - (c) any reparation made by the young person to the victim or the community;
 - (d) the time spent in detention by the young person as a result of the offence;
 - (e) the previous findings of guilt of the young person; and

- (f) any other aggravating and mitigating circumstances related to the young person or the offence that are relevant to the purpose and principles set out in this section.
- [66] Section 38(2)(e) specifically codifies the four "Rs" of youth sentencing: the principles of restraint, rehabilitation, reintegration, and responsibility. These principles, along with the terms accountability, just sanctions, and meaningful consequences collectively form the guiding principles, touchstones, and nomenclature of sentencing in the youth criminal justice system.
- [67] Sentencing proceedings are based on an individualized process, balancing both the particular needs and circumstances of the young person with the applicable sentencing provisions, making the proceedings perhaps more "offender centric": see *R. v. L.M.*, 2008 SCC 31 at para. 18. However, the values of society and the need to protect the public remain important factors. And so, while the YCJA may be offender centric, it is not offender exclusive: see *R. v. S.N.J.S.*, 2013 BCCA 379 at para. 28.
- [68] Housed within s. 38(2) of the YCJA are the principles of parity (ss. 38(2)(a) and (b)), proportionality (s. 38(2)(c)), and restraint on resort to custody (s. 38(2)(d)), as well as the previous-mentioned principles in s. 38(2)(e) of the YCJA. The YCJA in its first iteration did not include the sentencing objectives of deterrence, as the Supreme Court of Canada noted in *R. v. B.W.P.*; *R. v. B.V.N.*, 2006 SCC 27. Amendments to the YCJA in 2012 included that in sentencing under the YCJA a judge may take account of "specific deterrence" and "denunciation". Of course, these are discretionary principles of sentencing.
- [69] Specific deterrence permits a court, when imposing a sentence on a young person, to consider whether the sentence will discourage the young person from reoffending. Denunciation operates to ensure that a sentence communicates society's condemnation of the young person's conduct.
- [70] Of course, denunciation is in part achieved through participation in the criminal justice system in and of itself. However, it is critical to remember that these principles do not overwhelm the analysis and are not paramount over the other sentencing principles of accountability, rehabilitation, and restraint (see *R. v. P.R.*, 2018 SKCA 27 at para. 75), and it is also important to recall Madam Justice Garson's observations in *S.N.J.S.* at paras. 26-27. The individual rehabilitative needs of the young person are not examined in isolation. Justice Garson went on to address the principle of accountability in the YCJA, writing:
- [29] "Accountability" is not defined in the Act, but must be understood in part to be concerned with the severity of the sentence in relationship to the seriousness of the offence. Holding a young person "accountable" must also be understood to include consideration of whether the sentence meets the goal of ensuring the person is rehabilitated and reintegrated into society. While s. 38(1)(d) and (e) do require the Court to impose the least restrictive sentence possible, this does not mean, as the appellant contends, that the "least restrictive" requirement should be read independently from the other principles and purposes in the Act, particularly "accountability". This notion of accountability includes consideration of the

seriousness of the offence and requires a sentencing judge to balance and match the rehabilitative needs of the young person, with the other purposes and principles of sentencing. (See also Malcolm Thorburn, "Accountability and Proportionality in Youth Sentencing" (2009) 55 Criminal Law Quarterly, 304; but note the 2013 YCJA amendments post-date this article).

[Emphasis in original.]

[71] As can be seen from s. 38(3) of the YCJA, it enumerates a number of specific factors that must be considered by the court when sentencing a young person. I will review these factors in the analysis section of these reasons. Before doing so, I will briefly address the cases provided by counsel.

The Case Authorities

[72] A number of cases were cited and reviewed by the Crown and the defence to assist the Court in determining the appropriate amount of time to be apportioned to the custodial aspect of the sentence. As noted previously, both the Crown and the defence agree that some period of custody is required to meet the purpose, principles, and objectives of sentencing of the YCJA. The issue here is the length of time needed for the custodial aspect of the sentence.

[73] While the cases from the Crown and the defence on "range" are of some assistance, it must be noted that the parties were unable to find a YCJA sentencing decision similar, let alone identical, to the circumstances of this case.

[74] The only factually similar decisions are adult sentencing cases. In *R. v. Walker*, 2019 ONCJ 132, the offender sold his friend heroin and furanyl fentanyl. The deceased died from the toxicity of those two drugs and two other drugs. The 23-year-old offender in *Walker* pleaded guilty to trafficking fentanyl and criminal negligence causing death. In sentencing the offender, Justice Harpur found that the appropriate sentence for the criminal negligence causing death count was five years' incarceration, but proceeded to reduce it for mitigating circumstances that included the offender's cooperation in the prosecution of another individual. In the end, a 42-month sentence was imposed but reduced to a net sentence of 13 months and 15 days' incarceration once adjustments for presentence custody were made.

[75] Other adult sentencing cases in the same vein included:

- *R. v. Rodgers*, 2020 ONCJ 495, where 18 months and three years' probation was imposed for an offender who shared drugs with a friend and the friend overdosed.

- *R. v. Haas*, 2016 MBCA 42, where a three-year sentence was imposed for an offender who provided street morphine pills over 32 hrs. to a young woman staying with him. The offender tried to assist the deceased when he finally realized her distress.

· R. v. Knapp, 2018 ONSC 2923, where a joint submission for two-and-a-half years' imprisonment was acceded to for an offender who sold a patch of fentanyl to a young woman who had a drug use disorder and had been cut off the methadone program.

· R. v. Simpson, 2022 NSSC 301, where a 28-year-old offender pleaded guilty to manslaughter for his role in providing the 19-year-old deceased with a purple powder that contained fentanyl. The offender called 9-1-1 when the deceased became unresponsive and cooperated with the police. He had lived a prosocial life for over four years. He had a prior conviction for possession. The court imposed a 30 month sentence.

[76] The Crown acknowledged that sentencing decisions for adults are of limited utility in youth sentencing. However, the Crown contends that the cases should be considered for three reasons:

· General principles from similar adult manslaughter cases can assist in situating this offence within the inherently broad spectrum of manslaughter fact patterns.

· There are no youth cases that involve manslaughter by trafficking drugs. Accordingly, adult cases that involve manslaughter by trafficking drugs may provide a touchstone which can be modified as needed to take into account the unique considerations of the YCJA.

· The YCJA mandates that the youth sentence cannot exceed what an adult would receive in similar circumstances (s. 38(2)(a)), making it necessary to consider what an adult would receive in similar circumstances.

[77] While the adult sentences provide a perspective on the notion of range, they are of only limited assistance to determining the issue of how long the custodial portion of the sentence for J.C.P.-B. should be.

[78] The youth sentencing cases for manslaughter involve mainly assaultive conduct. I will provide the citations and the sentence imposed for some of the cases provided:

· R. v. A.D., 2011 BCSC 501, a three year custody and supervision order, with the custodial portion being two years and the supervision order being one year.

· S.N.J.S., where the offender, who had a good family background, no mental health issues, and was a low risk to reoffend, received an 18-month custody and supervision order with the first nine months to be served in custody. The offender had been involved in a fight with the deceased and stabbed her. The Court of Appeal upheld the sentence.

· R. v. T.M., 2017 BCSC 862, a 15-year-old Indigenous offender with no previous criminal record received a five month Intensive Rehabilitation and Custody ("IRCS") order, on top of 309 days' presentence custody. Thus, T.M. received an effective 15 month sentence.

· R. v. T.M.G., 2019 BCSC 1848, T.M.G. was a 23-year-old offender when he was sentenced for the beating death of his father after an argument about the electricity being cut off in their trailer. T.M.G. had a number of mitigating circumstances, pled guilty, demonstrated some sincere

remorse, and had done exceedingly well on bail. The sentencing judge was concerned that a custodial sentence in an adult facility could negatively impact the offender's rehabilitation prospects. Notwithstanding those concerns, a three-year IRCS order with 18 months to be served in custody was imposed.

· R. v. A.S.D., 2019 BCSC 147, this case involved three offenders who swarmed a young man and attacked him. The young man was known to one of the attackers and there was some dispute involving an ex-girlfriend. The Court found that the attack was not spontaneous, and involved "short-term and basic" planning, but the "plan" was not elaborate or sophisticated. The attack ended when Mr. Z. stabbed the victim. Mr. D. and Mr. R. were convicted of manslaughter, and Mr. Z. was convicted of second-degree murder following a trial. There were significant mitigating factors in relation to both Mr. D. and Mr. R., including: a low risk of reoffending, strong prospects of rehabilitation, exemplary compliance with community supervision, positive work history, no criminal history, and an attitude embracing self-improvement: see paras. 542, 563, 600. However, the court found this to be a serious offence and the degree of responsibility of both those offenders to be high. Despite the extensive mitigating factors, the court found that custody was necessary:

[601] Given the seriousness of the offence and their degree of responsibility, I have concluded that no sentence short of a committal to custody will be proportionate to those factors. In my opinion nothing less would constitute a just sanction, with meaningful consequences to hold them accountable. In particular, I have concluded that custody is necessary to (1) promote a sense of responsibility in them and an acknowledgment of the harm they have done and (2) denounce the dangerous tendency of some members of society, often intoxicated groups of young males, to assault outnumbered and defenceless victims.

[79] Justice Schultes found that specific deterrence was not necessary: para. 602. The Court ordered custody, despite the fact that the opinions of experts suggested that associating with more experienced and older offenders may undermine Mr. D. and Mr. R.'s rehabilitation: para. 603. Justice Schultes noted in A.S.D. that there are not a large number of closely comparable manslaughter cases in this particular region. By looking more broadly where the moral blameworthiness of the offenders is at that level, sentences have been imposed that involve periods of custody in the one to two year range: para. 606. The Court imposed custody and supervision orders of three years, with 18 months in custody and 18 months under conditional supervision in the community.

[80] The cases provided support the positions of both the Crown and the defence that the custodial portion of sentences for young persons sentenced for manslaughter ranges between one and two years in length. The defence relied upon many of the same adult and youth sentencing cases provided by the Crown and also engaged in an exhaustive review of these cases.

[81] I adopt the observations of my colleague Schultes J. in A.S.D. at para. 606, where he noted that for an offender with a relatively high level of moral blameworthiness in sentencing for manslaughter under the YCJA, the sentences imposed involve a custodial sentence in the 12-24 month range. However, no two cases are alike. The ultimate question in sentencing remains this: Does the sentence reflect the gravity of the offence, the degree of responsibility of the offender, and the unique circumstances of each case?

Analysis

[82] In crafting the appropriate sentence for J.C.P.-B. in the circumstances of this case, I begin by identifying the aggravating and mitigating factors.

[83] The aggravating factors include:

- J.C.P.-B. knowingly supplied Carson Crimeni with an objectively massive amount of MDMA.
- J.C.P.-B. misled Carson Crimeni about the amount of drugs he gave to him on two occasions, over the course of the afternoon and evening.
- J.C.P.-B. was aware of the physical symptoms that Carson Crimeni was experiencing as the second dose of MDMA started to affect Carson. He did nothing to intervene or assist him when it became obvious that Carson was extremely intoxicated and not in a condition to look after himself. I pause to note that many others failed to intervene as well, but it was J.C.P.-B. who supplied the drugs and had experience in taking those drugs.
- At the time of the offence, J.C.P.-B. was a drug dealer and he provided drugs to a 14-year-old. While Carson Crimeni may have had his own issues in requesting drugs from J.C.P.-B. that provide some context to this offence, it does not neutralize this aggravating factor.
- MDMA is a Schedule I controlled substance. Such substances pose severe health risks to users, including the risk of addiction and overdose: see R. v. Lloyd, 2016 SCC 13 at paras. 74, 82.

[84] The mitigating factors include:

- J.C.P.-B.'s lack of a criminal history.
- J.C.P.-B.'s guilty plea. Although it came after a preliminary hearing, it was before the trial was commenced, it has saved 20 days of Court time and, more significantly, removed the need for a number of young people having to testify in very stressful and upsetting circumstances. A guilty plea implies insight, remorse, and acceptance of responsibility for the offence.
- J.C.P.-B. has also demonstrated remorse to the Court in his letter that he read aloud.
- J.C.P.-B. has performed exceedingly well while on bail. Indeed, he has transformed himself, walking away from his drug-dealing antecedents and his own substance-use issues.
- J.C.P.-B. has significant support from his family, his employer, and his community.
- J.C.P.-B. is fully employed and a valued and responsible employee.

[85] All of the mitigating factors firmly establish that J.C.P.-B. is well on the road to rehabilitation.

[86] I turn now to the factors in s. 38(3) of the YCJA.

Degree of Participation by the Young Person

[87] J.C.P.-B. is solely responsible for Carson's death. The circumstances in which he provided Carson with a massive amount of MDMA through the course of two sales over the period of a few hours makes his moral blameworthiness quite high. J.C.P.-B. failed to advise Carson of the true amount of MDMA that he was giving him, thereby depriving Carson of any ability to make an informed choice about consumption.

[88] Given J.C.P.-B.'s trafficking history and own substance-use issues, it would be plainly obvious the amount of drugs provided was objectively dangerous. While his moral blameworthiness is presumptively attenuated by his status as a young person, it nevertheless is very high within the context of offences committed by young persons.

The Harm Done to the Victim and Whether it was Intentional or Reasonably Foreseeable

[89] While J.C.P.-B. had no intention of killing Carson Crimeni, the fact remains that his conduct in supplying the deceased with a massive amount of MDMA made it more than reasonably foreseeable that Carson's life would be endangered by consuming it all.

[90] In terms of the consequential harms of J.C.P.-B.'s conduct, as the Crown notes and the victim impact statements confirm, it could not be greater. Carson lost his life and his family have lost a cherished family member. They continue to suffer pain and trauma over Carson's death.

Reparations Made by the Young Person to the Victim or the Community

[91] In this respect, J.C.P.-B.'s genuine remorse, his willingness to engage in restorative justice, and his complete shift away from drugs towards a prosocial lifestyle, engaged with his family and community, are all demonstrative of his appreciation of the wrongfulness of his actions and his accountability for his acts.

Previous Findings of Guilt by the Young Person

[92] J.C.P.-B. has no youth record.

Application of the Principles to the Case at Bar

- [93] As noted earlier, counsel referred me to a number of authorities. Not surprisingly, none are completely on point, as each case is unique and each offender, adult or young person, is unique. As a consequence, it is inevitable that while there may be some similarities to the case at bar, there are also significant differences in terms of the circumstances of the offences, the antecedents of the offenders, or both.
- [94] Accordingly, while trite, it bears mentioning that sentencing a young person under the YCJA is an intensely fact-specific exercise that makes it difficult to compare sentences in the disparate circumstances of offences and offenders.
- [95] The gravity of this offence is very serious and J.C.P.-B.'s moral blameworthiness is quite high. He made a conscious choice to oversupply a 14 year old with what turned out to be a lethal amount of MDMA. He made a dangerous and stupid decision and it has cost a child his life.
- [96] J.C.P.-B. will have to live with that for the rest of his life.
- [97] Much has been said in the cases about the meaning of accountability within the YCJA. Justice Watchuk reviewed the concept at length in *R. v. T.M.*, 2017 BCSC 862, both in terms of whether an adult sentence should be imposed (paras. 70-74), and in the context of imposing a youth sentence. On the latter point, Watchuk J. noted:
- [110] Accountability "drives the entire YCJA sentencing regime" (*R. v. A.O.* at para. 59). According to the Manitoba Court of Appeal in *R. v. A.A.Z.*, 2013 MBCA 33, the Ontario Court of Appeal's comments with respect to accountability for the purpose of s. 72 apply equally to the meaning of accountability elsewhere in the YCJA (para. 57). Chief Justice Scott (as he then was) stated that "the Ontario Court of Appeal correctly realized that both proportionality and rehabilitation concerns have to be considered when determining accountability under the YCJA, reaffirming that the "meaningful consequences" aspect of accountability looks toward proportionality" (para. 57).
- [111] With accountability as the guiding principle, s. 38 mandates that in accordance with the proportionality principle, the sentence imposed must be "the least restrictive sentence that is capable of achieving [accountability as described]" (s. 38(2)(e)(i)). The sentence should achieve parity with youth sentences for similar offences in the region (s. 38(2)(b)) and cannot be more severe than the sentence an adult would receive for the same offence (s. 38(2)(a)).
- [98] In this case, as I stated earlier, the parties agree that a custodial sentence must be imposed. I agree with that submission. A fully non-custodial sentence would not appropriately balance and recognize all the purposes and principles of the YCJA, particularly accountability.
- [99] Much like the observations by Justice Garson in *S.N.J.S.*, there is a conundrum in this case. In light of the seriousness of this offence and J.C.P.-B.'s high degree of responsibility for it, these factors militate in favour of a longer custodial disposition. On the other hand, such a

sentence is not necessary to meet J.C.P.-B.'s rehabilitation goals. Moreover, I am concerned about the potential negative impact serving a custodial sentence with adults in the provincial correctional system might well have on J.C.P.-B. and his positive steps undertaken over the last four years while on bail.

- [100] The question that remains then is the length of the sentence and the extent to which it is served in custody or in the community.
- [101] Bearing in mind all the principles enumerated in the YCJA that must be considered in imposing sentence and the totality of the circumstances of this case, the appropriate sentence is the maximum sentence of three years' custody and supervision.
- [102] The question then moves to what part of that three-year period under the custody and supervision order should be served in custody. Further incarceration is necessary to achieve accountability. However, I am mindful of the negative impacts that a prolonged custodial sentence could have on J.C.P.-B.'s rehabilitation that he has worked so assiduously towards. Indeed, the prospect of a long custodial period may well have little rehabilitative consequence in the circumstances.
- [103] J.C.P.-B. has demonstrated over the past four years that he can perform well in the community. He has complied with his release order and has been gainfully employed. This militates in favour of a shorter custodial period.
- [104] To put it another way, the length of the custodial portion of the sentence must be calibrated to be the least restrictive to provide meaningful consequences, and the most likely one to achieve rehabilitation and reintegration. Thus, a longer period of community supervision is essential to support J.C.P.-B.'s already-demonstrated strong rehabilitation prospects.
- [105] J.C.P.-B., would you please stand up.
- [106] Bearing in mind the purpose, principles, and objectives of sentencing under the YCJA, and having considered the evidence adduced, the authorities provided, and the submissions of counsel, pursuant to s. 42(2)(o) of the YCJA, I impose on you a custody and supervision order for three years, consisting of a continuous period of custody of 18 months followed by a period of conditional supervision of 18 months pursuant to s. 105 of the YCJA.
- [107] The conditions of your conditional release order will be set pursuant to s. 105(1) of the YCJA prior to your release.
- [108] You may have a seat.

Ancillary Orders

- [109] As manslaughter is a primary designated offence and the order is mandatory, pursuant to s. 487.051(1)(a) of the Code, J.C.P.-B. will provide the number of samples of bodily substances that are reasonably required for the purpose of forensic DNA analysis.

- [110] Pursuant to s. 51(1) and (2) of the YCJA, I prohibit J.C.P.-B. from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition, or explosive substance for a period of five years.
- [111] Finally, pursuant to ss. 119(1)(g)(ii) and 119(1)(s)(ii) of the YCJA, the four reports contained in Exhibit #2, together with the reasons for sentence, are to be released to the youth worker for case management purposes. With the agreement of counsel, I also direct that copies of Exhibit #3, the victim impact statements, and Exhibits #6 and #7, the defence letters and the offender's letter of apology, be included in the materials for the youth worker.
- [112] Similarly, counsel had no objection to the director of the provincial correctional facility for adults also receiving a copy of those reports. I note that in A.S.D. at para. 615 Justice Shultes made that order because he felt that it was necessary for the director of the provincial correctional facility to understand who was coming in, who they were dealing with, and in order to ensure that the safety of D. and R. would not be jeopardized themselves, and that depriving corrections officials of that crucial information about those individuals was not something that should occur.
- [113] Accordingly, pursuant to s. 119(1)(g)(ii) of the YCJA, I order that Exhibit #2, which contains the reports; Exhibit #3, the victim impact statements; Exhibit #6, the defence letters; and Exhibit #7, J.C.P.-B.'s letter of apology, also be released to the director of any provincial correctional facility for adults at which J.C.P.-B. may serve his sentence as, in my view, withholding the reports would jeopardize the safety of J.C.P.-B., as s. 34(7)(b)(ii) requires, by depriving correctional officials of crucial information about J.C.P.-B.
- [114] Is there anything further from the Crown's perspective?
- [115] CNSL M. STACEY: No, Madam Justice.
- [116] THE COURT: Mr. Beckett?
- [117] CNSL M. BECKETT: Not from the defence.
- [118] THE COURT: All right.
- [119] CNSL M. BECKETT: Thank you.
- [120] THE COURT: Before we adjourn, let me express my gratitude for the thoughtful, sensitive, and professional manner in which counsel have conducted this very difficult case. The Court is indebted to you for the enormous assistance that you have provided. Thank you.
- [121] Good luck to you, J.C.P.-B. Thank you, we are adjourned.

"Ker J."

[1] MDMA (3,4-Methylenedioxymethamphetamine) is an illegal substance listed in Schedule 1 of the Controlled Drugs and Substances Act. MDMA is also known

as molly, ecstasy, XTC, X, E and other names. In its pure form MDMA is a white powder but is usually sold as a tablet or capsule.

[2] Marked Exhibit #1 on the sentencing hearing.

[3] Collectively marked Exhibit #2.

[4] All included in Exhibit #6.

[5] Marked Exhibit #7 on the sentencing hearing.

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