

# Catch-22 Conditions of Community Supervision: Understanding the Challenges of Compliance for People with Brain Injury

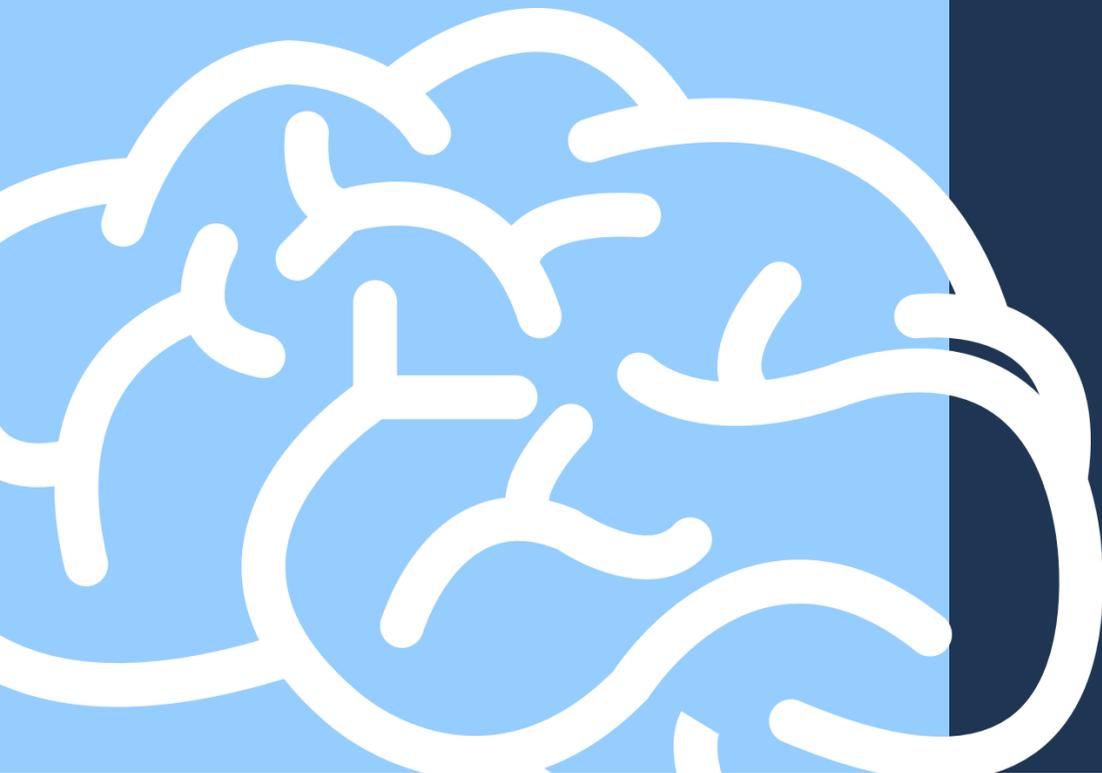
**LEPH CONFERENCE - OTTAWA**

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# ARTHUR MCLUHAN

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## SOCIOLOGIST

Dr. Arthur McLuhan is a Senior Research Associate at MAP Centre for Urban Health Solutions, St. Michael's Hospital, Toronto. A sociologist of culture and interaction, his research focuses on the patterns of interaction that shape involvement, identity, and inequality. One of his current projects is a study exploring the challenges of community supervision conditions among people with a history of traumatic brain injury.

## Policy and Practice

Education  
&  
Screening



## Research

Qualitative  
Interviews  
&  
Knowledge  
Translation



## Community Engagement

Community Partner  
Workshops  
&  
Continuous Collaboration



# Breaking the Cycle Network

A group of community and government partners who are committed to developing solutions that reduce criminal-legal involvement, with a specific focus on re-entry to halt the cycle of (re)incarceration for people with brain injury.

# BREAKING THE CYCLE NETWORK

## COMMUNITY SUPPORT GROUPS



Mothers Offering Mutual Support

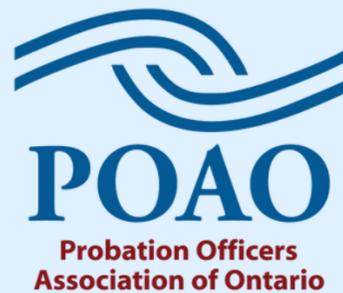
## JUSTICE AND EQUITY RESEARCH LAB



## PEOPLE WITH LIVED EXPERTISE



## JUSTICE SYSTEM PARTNERS



Toronto Bail Program



Drug Treatment Court



## COMMUNITY JUSTICE & RE-ENTRY SERVICE AGENCIES



PASAN



## TRAUMATIC BRAIN INJURY SUPPORT ORGANIZATIONS



CENTRAL EAST



Equitable Care for ALL

# Community Supervision

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**2.5 TIMES**

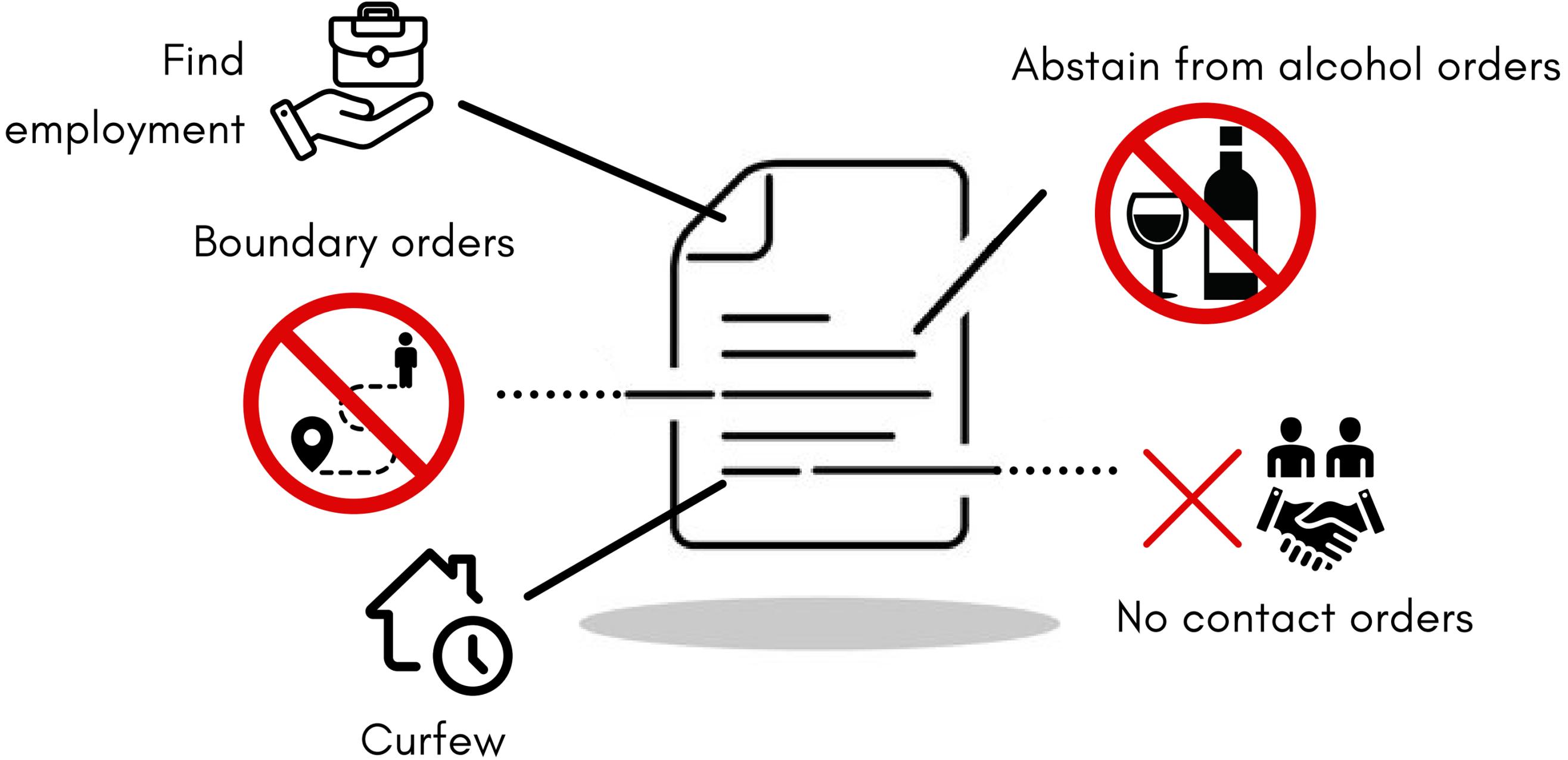
under community  
supervision



**Includes:**

- **Pre-trial supervision**
- **Probation**
- **Parole**

# Court-Mandated Conditions



# Brain Injury and Community Supervision

After experiencing TBI, people may have trouble in four domains:



## COMMUNICATION

- Reading
- Thinking



## EMOTIONAL DYSREGULATION

- Heightened/blunted response



## BEHAVIOURAL DYSREGULATION

- Impulse control



## COGNITIVE FUNCTIONING

- Attention
- Memory
- Reasoning

## Poor Outcomes



Behavioural  
infractions



Treatment  
non-  
adherence



Failing to  
appear for  
mandatory  
appointments



Probation and  
parole  
violations and  
revocations

# Brain Injury and Community Supervision

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Due to limited awareness among supervision officers, challenges associated with TBI can be misinterpreted as:



Non-compliance



Rudeness



Defiance



Poor motivation



Disengagement



Aggression

# CATCH-22 STUDY



## OBJECTIVE 1

How individuals with a history of brain injury experience and supervision conditions



## OBJECTIVE 2

How criminal legal professionals set and enforce conditions



## OBJECTIVE 3

How interactions between criminal-legal professionals and persons under conditions shape compliance

# Qualitative Interviews

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## PEOPLE UNDER SUPERVISION

Adults who have been under court-mandated supervision conditions and may have a history of head injury



## FRIENDS AND FAMILY

Support adults who have been under court-mandated supervision conditions. Honorarium provided



## SERVICE PROVIDERS

Apply, monitor, enforce conditions, and support adults under court-mandated supervision conditions



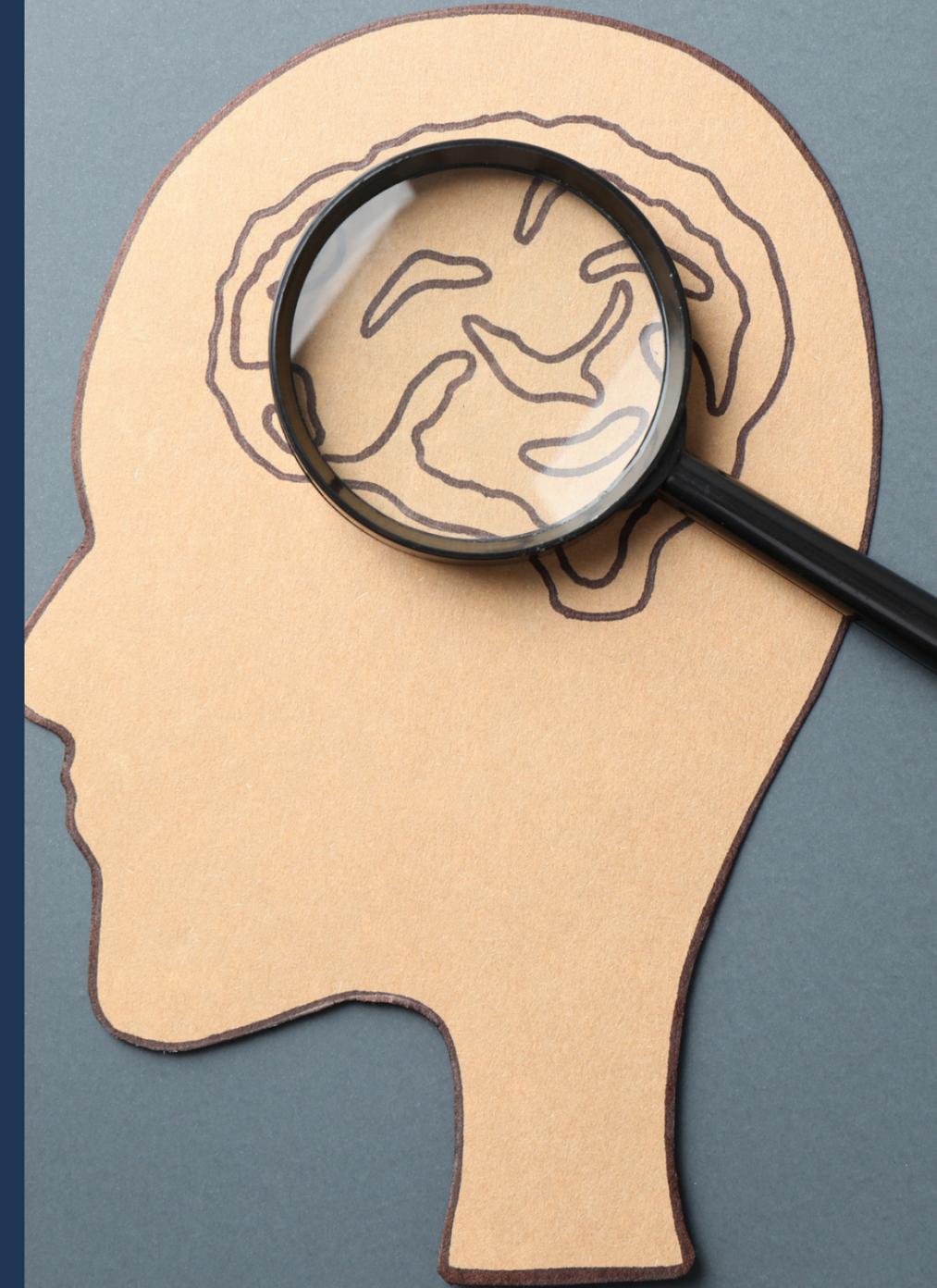
## INDIGENOUS ELDERS

Support adults who have been under court-mandated supervision conditions

# Eligibility Criteria

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- Experience of being under court-mandated conditions
- Aged 18 or older
- Comfortable with being interviewed in English
- Screened positive for brain injury based on the **HELPS Brain Injury Screening Tool**



# PARTICIPANTS



## PEOPLE UNDER SUPERVISION

TOTAL



25 PEOPLE

24-71 YEARS

12 PEOPLE

13 PEOPLE



## SERVICE PROVIDERS

(e.g. community agencies, judges, police officers, lawyers)

TOTAL



22 PEOPLE

25-65+ YEARS

16 PEOPLE

6 PEOPLE



## FRIENDS AND FAMILY

TOTAL



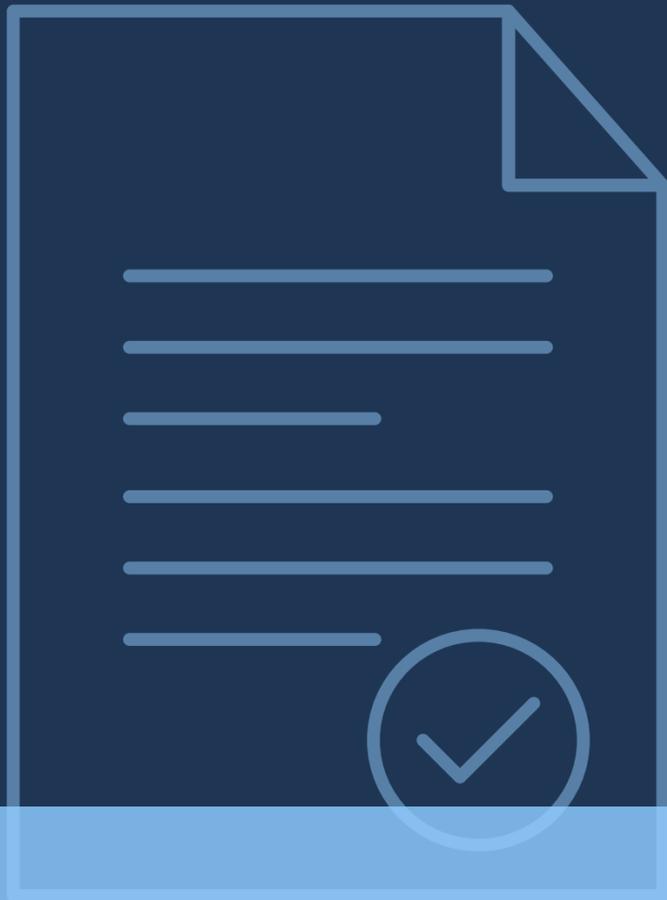
4 PEOPLE

55+ YEARS

4 PEOPLE

0 PEOPLE

# CHALLENGES OF CONDITIONS



# VARIABLE BRAIN INJURY AWARENESS

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I think it [awareness of brain injury the CLS] is still growing. See, a lot of people that maybe aren't that familiar still would classify everybody under mental health. [Laugh] Like and they're not really able to distinguish you know and these are lawyers and judges... They're just, 'That's a mental health person.' I don't think that they realize the difference. (KI - 01, Bail Program Manager)





## JUST SIGN AND GET OUT

“I was happy to be signing the paper and getting out of jail ... I guess the only thing I can say [about] it is like it was more happening [to me] than I was experiencing it ... so like detached from the whole going on of it. Because like I said, more times than not, when we're signing the papers, we're just about to be released, so our minds are more focused on seeing them later, right. (P08)



## UNCLEAR LANGUAGE

“ [They] give that, that piece of paper. They hand it to people and, nine times out of ten, it just looks like words. It's all written in, you know, it looks like mumbo jumbo. You can't understand it. (P09)



# BOILERPLATE CONDITIONS

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“

I don't think that it is intentional by the judicial officer. But **what happens is you get into the trap of the standard boiler plate. Well, this [condition] fits so let's just throw that on there.** It's like a template you know. Okay, this, this, this, and this [condition], but you didn't do the critical thinking. The individual walks out the door with their bail paper and **the next thing you know they're back the next morning in bail court because you put some dopey condition on there that's humanly impossible to comply with because** the individual's got mental health problems or **they got a brain injury. They just don't comprehend.** (KI 03, Justice of the Peace)

# SELF-REGULATION AND COGNITIVE-COMMUNICATION LIMITATIONS

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Many of them [clients with brain injuries] have such mood swings that for them to control their behaviour is much more difficult and so their ability to follow conditions is much more difficult for them.. and they can't make good judgments. So you can tell, the judge can tell them a million times you're going to follow these rules and you're going to do this, but they're not going to.. They don't have the capacity to make what you and I would do in an executive function and make the good judgement... [Clients with brain injury also] have a harder time remembering, following the conditions. (KI 02, Criminal Defence Lawyer)

# GENDERED DIMENSIONS

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“

Sometimes I think **we take this social control approach and we need to be actually supporting people's independence to make decisions for themselves**... We need to actually recognize that women dependent on men [often] come from abusive situations, abusive families, lots have childhood sexual abuse. **We need to create a space where they can make meaningful decisions for themselves. Conditions can kind of rob women of that, those choices sometimes. You know you see a lot of report relationships conditions on women who've been in abusive relationships and those men have gotten involved in crime, which then gets them [women] involved in crime.** And it's like "Well, it's a risk factor, because if she gets into another one [relationship]." **Why aren't we putting the focus then on supporting her to gain self-confidence so that she doesn't fall into that cycle again?** There's a lot of individualizing the problem and not enough recognition of the social context. We individualize hugely when we're imposing these conditions... We don't spend enough on like upstream causes and supports and problem solving. (KI 09, Parole Board Member)

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# SET UP TO FAIL

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That special condition that they have on everything that says [do] anything your parole officer says [was particularly challenging]. That one really, really got to me because I'm supposed to [have everything] written down. [...] It's a list of things that is easier for me to understand. If it's not written down, how the heck am I supposed to remember all the stuff [if it's] not even written down? Like it just didn't make sense, especially for someone who has a disability ... It feels like, [...] the world is made for people who are neurotypical, not neurodivergent. And it's like that's what parole is made for--people who have the ability to handle change [...] It's very ableist. So, it made me feel like sometimes things were impossible. And that it was setup for failure. (P04)



(Catch-22 Study)



# Responsive Approaches



# BRAIN INJURY TRAINING AND EDUCATION

“ **I think that the training** both from a law enforcement aspect and for the bench like the Justices of the Peace and judges are **making us more aware of the acquired brain injury set of circumstances and the potential for this individual who is not a bad person to have gotten themselves in a jackpot and now find themselves in the criminal justice system.**

I believe that is changing slowly, but there's much more awareness of it. (KI 03, Justice of the Peace)



(Catch-22 Study)



# SETTING CONDITIONS

“——  
It would be beneficial to the progress [to have input into my conditions] because then it can be more realistic with our input. Because we know what we're capable of, not just what we have to be told to do. **You can tell anybody. to jump ten feet. It doesn't mean everybody. can jump ten feet, right?** (P 08)



# NAVINGATING NEXT STEPS



Somewhere in all those rooms where there's like probation, there's Duty Counsel, there's the Crown's Office. All these offices. Maybe one of them can be to just explain how to start rolling with this ... [like] the first thing I have to do is I have to go sign into a police station. And then I have a probation officer that I have to phone within 48-hours ... [It would be helpful to have a place in the courthouse to go] if the client has any questions, somewhere that they can go with their papers and [say], "I was just too nervous in there. I didn't catch it. I heard something about a police station and an address and probation officer? Could you help?" And they help you work through those papers for a few minutes ... Exactly what the next steps are. That's right. Exactly what the next steps are. (P01)



A close-up photograph of a doctor's hands holding a CT scan of a brain. The doctor is wearing a white lab coat and blue scrubs. The CT scan shows several cross-sections of the brain, with some areas highlighted in white. The background is a blurred clinical setting.

# ENFORCING CONDITIONS

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—”

**Let's say that [a client is] MIA, missing in action. They didn't meet their appointment.** [...] Instead of issuing a warrant, why don't they do a courtesy call ... or a welfare check to make sure that person is okay, especially if they have a brain injury, you know, are they okay? .. **That [does] not necessarily mean that they're purposely missing their appointments.** [...] **it's not purposely because they're lazy and don't want to go and want to be jerks and get breaches. It's just it's overall it's a brain injury, it's a condition** .. Instead of giving the person the breach, [...] **look at other factors you know as to why that happened and if they all meet that criteria that it falls under a brain injury ... as opposed to being careless and lazy.** (P21)

# Discussion



1

Challenges of brain injury overlap with the challenges of conditions



2

Patterns of interaction shape conditions, violations, and compliance



3

Challenges represent opportunities for accommodation and intervention



**QUESTIONS?**



## **CONTACT INFO**

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# FUNDERS



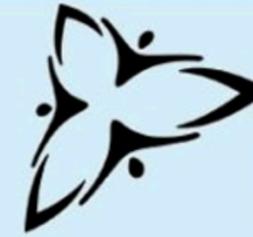
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**Canadian Institutes of  
Health Research**



**Ontario**

Ministry of Health & Long Term Care



**Ontario Neurotrauma Foundation**  
Fondation ontarienne de neurotraumatologie

Ontario  
Trillium  
Foundation



Fondation  
Trillium  
de l'Ontario

**Ontario**



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