

**Building Bridges: Mental Health and the Justice System, a Symposium to Promote
Collaboration**

Calgary, Alberta
May 25 & 26, 2011

Background

In October 2009, Federal/Provincial/Territorial (FPT) Ministers Responsible for Justice agreed that mental health issues in the justice system should be a standing item for discussion. To support a more in-depth study and discussion of the issue, a subgroup of Deputy Ministers instructed officials to develop three products: an environmental scan; a compendium of FPT mental health and justice initiatives, best practices and programs; and a proposal for a symposium.

The objectives of the symposium were to bring together expert-level practitioners and policy makers in mental health, criminal justice, and social policy, from within and outside of government, to assist FPT Deputy Ministers Responsible for Justice in:

1. Improving responses of the mental health and criminal justice systems when addressing the needs of individuals with mental health issues;
2. Engaging other ministries (such as health, and social services) in reframing criminal justice responses to individuals with mental health issues to invoke a holistic, client-centred approach;
3. Identifying effective approaches and opportunities for collaboration and partnership between and within government and non-governmental systems at each stage of the criminal justice process and exploring their sustainability.

It was anticipated that the event would recommend practical solutions for increased utilization of existing tools and resources; outline opportunities for change and partnerships and greater collaboration; and lay a foundation for an action plan for building and sustaining partnerships among responsible ministries, orders of government and stakeholders.

An interim report was prepared immediately following the Symposium for the June 2011 meeting of Deputy Ministers responsible for Justice. This final report builds on the background and conclusions of the interim report and further expands the recommendations based on the facilitated discussions of the participants.

Context

Mental illness affects nearly all Canadians at some time personally, or through a family member, friend or colleague. It is estimated that 20% of Canadians will personally experience a mental illness in their lifetime¹.

¹ Fast Facts: Mental Health/Mental Illness. http://www.cmha.ca/bins/content_page.asp?cid=6-20-23-43

The impact of mental illness on Canadians is substantial, not just in terms of the emotional impact on individuals and families, but also financial. One estimate put the cost of mental illness to the Canadian economy in 2003 at \$51 billion².

While provinces are responsible for coverage of mental health care services for their residents, and providing reasonable access to these services, the federal government assists the provinces in meeting the costs through transfer payments; the authority and framework for this falls under the *Canada Health Act*. The federal government is also responsible for providing mental health services to specific populations of Canadians including First Nations communities and federally incarcerated offenders. The mental health care system, then, is a shared responsibility in terms of its challenges and successes.

Although this is an area of shared responsibility, the federal government has taken a national leadership role in mental health issues. In 2006 the Senate Standing Committee on Social Affairs, Science, and Technology released its report “Out of the Shadows at Last”, a comprehensive examination of the state of mental health care in Canada. This report recommended the creation of a mental health commission to bring clearer, more coordinated focus to mental health issues.

In Budget 2007, the Government of Canada committed to \$130 million over 10 years towards the creation of the Mental Health Commission of Canada (MHCC). The MHCC is mandated to lead a 10-year anti-stigma campaign, build a pan-Canadian knowledge exchange centre, and facilitate the development of a national mental health strategy for Canada. An additional \$110 million over five years was provided in 2008 to undertake research demonstration projects on homelessness and mental health.

Over the past decades, the number of individuals with mental health issues who have become involved in the criminal justice system has increased. Individuals with mental health issues pose unique challenges for the criminal justice system as mental health problems and illnesses have been identified as risk factors for criminal behaviour and incarceration has been identified as a risk factor for mental health issues. These individuals can come into contact with the criminal justice system through interaction with the police, the courts, and corrections.

A number of factors have been cited as contributing to the increasing numbers of individuals with mental illness in the criminal justice system.³ Some of these include lack of sufficient community resources, including housing, income and mental health services. Individuals with mental illness are more likely to be arrested, detained, incarcerated, and more likely to be disciplined, rather than treated, while incarcerated. Once they have been released from the criminal justice system, they are more likely to be

² Mental Health and Addiction Statistics.

http://www.camh.net/News_events/Key_CAMH_facts_for_media/addictionmentalhealthstatistics.html

³ Canadian Mental Health Association, BC Division, “Criminalization of Mental Illness”, March 2005. Online: <http://www.cmha.bc.ca/files/2-criminalization.pdf> (last accessed May 11, 2011)

arrested and detained again. Further, there is a high rate of substance abuse among individuals with mental illness resulting in a number of people with complex needs. Additionally, there is a lack of specialized training across sectors for both criminal justice and mental health professions.

The complexities of the issues and the interconnectedness of the criminal justice, mental health, social and support systems pointed to the need to address the issues in an integrated manner.

Overview of the Symposium

The two-day symposium brought together approximately 170 experts from various sectors including: health service delivery, health policy, police, courts, prosecution, criminal defence, criminal justice policy, corrections, government and non-governmental agencies. Seven FPT Deputy Ministers also attended. A full participant list is attached as **Annex 1** and an agenda of the Symposium is attached as **Annex 2**.

The Honourable Verlyn Olson, Minister of Justice and Attorney General for Alberta, opened the Symposium. His remarks pointed to the need to do something concrete about this pressing and complex issue, described some promising efforts at collaboration in his jurisdiction, and suggested that enhancing resources dedicated to crime prevention and early intervention may provide a much needed complement to existing initiatives. Minister Olson noted that, “We cannot have individual government departments and non-governmental agencies operating in isolation from one another. Cooperation is the key to avoiding a fractured approach when dealing with people with mental health issues.”

The Honourable Vic Toews, Minister of Public Safety Canada, spoke during lunch about the need for moving individuals with mental illness out of prisons, and into the care that they need. Minister Toews also reinforced Minister Olson’s comments with respect to the need for earlier intervention. Of note, Minister Toews expressed that, “Preventing crime before it happens and addressing it appropriately when it does, means that we must have a proper understanding of the scope and depth of the mental health challenges we face as a country.” He also noted the process would take time, and that in the interim, we must stop relying on prisons to act as a parallel health care system to provide care for individuals with mental illness after a crime has been committed.

The symposium was structured around four guest speakers and a series of panel discussions.

- The keynote address was delivered by **Dr. Patrick Baillie**, a psychologist with the Forensic Assessment and Outpatient Services, Alberta Health Services. Dr. Baillie provided a broad overview of the challenges facing individuals with a diagnosed mental illness that come into contact with the justice system, ranging

from a mistaken belief that mental illness is somehow directly related to crime, to the implications of being found unfit for trial, or not criminally responsible;

- **David Granirer**, a counsellor and stand-up comedian, presented a funny and engaging discussion on fighting the stigma surrounding mental illness. His innovative organization trains individuals diagnosed with a mental illness in the art of stand-up comedy as a means of educating the public and building self-esteem;
- **Dr. Gabor Maté**, spoke about mental illness, adversity and justice, emphasizing the importance of early intervention; and
- **Amanda Tetreault**, a Montreal-based photojournalist shared her moving personal story of growing up with a father diagnosed with schizophrenia and the challenges that posed to her family.

A series of five panel discussions examined critical issues, including:

- Areas of progress in research and lessons for improvement;
- Challenges on the front lines: identifying and filling the gaps;
- Mental health courts;
- Special populations within mental health and justice systems; and
- Mental health in a secure environment.

The panels engaged an impressive array of experts and the facilitated discussion sparked wide-ranging contributions on the areas of collaboration, best practices, challenges and the way forward on a wide range of issues.

Panel Summaries

Areas of progress in research and lessons for improvement

This panel set the context with research and evaluated practices with respect to providing mental health services to forensic clients. Panellists discussed the relationship between crime and mental disorder, the impact of stigma in providing mental health services, and some of the challenges facing Correctional Services of Canada (CSC) in providing mental health care in penitentiaries. The panel was chaired by Deputy Minister of Public Safety Canada William Baker who spoke to a number of promising initiatives in terms of collaboration across the criminal justice and health systems, and progress made by CSC in responding to the mental health needs of offenders. Panellists included Dr. James Bonta, Dr. James Livingston, and Dr. Ivan Zinger.

Dr. Bonta from the Corrections Research Division of Public Safety Canada discussed two competing theoretical perspectives: one based on the assumption that crime is caused by pathology, and another that explains crime as a function of a number of well-established risk factors including history of antisocial behaviour, antisocial personality pattern, antisocial cognition, antisocial attitudes, family and/or marital problems, school and/or work problems, leisure and/or recreation problems, and substance abuse problems. The role of these factors in predicting re-offending in populations of offenders with mental illness was supported by evidence from meta-analytic reviews (i.e., reviews that statistically summarize findings across a number of research studies). Dr. Bonta demonstrated with further meta-analytic review evidence that a) treatment studies support a risk-need-responsivity based model for treatment for offenders with mental illness, and b) more high-quality studies examining treatment of offenders with mental illness is needed.

Dr. James Livingston from British Columbia Mental Health and Addiction Services spoke to the impact of stigma with respect to mental illness on clients' access to mental health services. Dr. Livingston raised the possibility that increased use of mental health services in a forensic context may, in fact, increase client exposure to stigma. Dr. Livingston discussed the need for effective transition planning, training for criminal justice service professionals on mental health and addictions issues, screening of offenders for mental health issues and timely referrals on behalf of criminal justice professionals to appropriate mental health services.

Dr. Ivan Zinger from the Office of the Correctional Investigator (OCI) described CSC's obligations with respect to providing offenders with health and mental health care, the elevated prevalence of mental health care concerns in penitentiaries, how mental health concerns are managed in penitentiaries, and how offenders with mental health concerns may be dealt with differently in penitentiary (such as more often being placed in administrative segregation, being unable to complete correctional programs, and being classified at higher security levels). Dr. Zinger also discussed the challenges CSC faces in managing offenders with mental health issues including equipping staff to recognize and deal with significant mental health issues, working within confidentiality and privacy barriers with respect to information sharing between corrections and health care professionals, the limited capacity and resources to address growing mental health care needs, a lack of "intermediate" mental health care capacity, and recruiting and retaining qualified mental health professionals.

Challenges on the front lines: identifying and filling the gaps

This panel included representatives from the front lines of the justice and health systems in order to identify the challenges they face in dealing with persons who have a range of mental health issues and pose a risk to commit offences or who have committed offences. The panel was chaired by David Loukidelis, Deputy Attorney General, Ministry of Attorney General for British Columbia. Panelists included Jonathan Rudin, A/Sergeant Erin Partridge, Fay Schneider, Craig Dempsey, and Francine Côté.

Jonathan Rudin, Program Director, Aboriginal Legal Services of Toronto, discussed FASD - not as an Aboriginal issue but as an issue that occurs in greater proportion amongst First Nations people. FASD causes brain damage that is not reversible, yet the damage is largely invisible, and can go undetected. Mr. Rudin discussed that results are mixed on how individuals with FASD fare in mental health courts. These courts do not always cater well to the needs of FASD clients because they are often tailored to offenders who have committed less serious offences, rather than FASD clients that more often commit more serious offences. The mental health courts that do deal with more serious offences have challenges with diagnoses and treatment. Mental health professionals are not always adequately diagnosing or treating FASD. FASD is not easily addressed through cognitive therapy whereas most prison programming tends to be cognitively-based.

Acting Sergeant Erin Partridge from the Vulnerable Persons Unit and Police Crisis Team (Calgary Police) and Fay Schneider (Alberta Health Services' Mental Health and Addiction Services), provided an overview of the Police and Crisis Team (PACT) pilot funded through Alberta's Safe Communities Initiative. They described the make-up of the PACT team (five Calgary police constables with five mental health professionals from Alberta Health Services, and a consulting psychiatrist), the benefits of the partnership, in particular the pairing of police ability to apprehend and apply mandatory assessment and treatment conditions with the mental health system's knowledge of needed treatment, options for diversion away from mental health and justice systems, and capacity for providing complete mental health status assessments. PACT teams are available from 6a.m. to 1a.m., seven days a week. The presenters also provided some summary information on the impact of the PACT teams. The teams have been 73% successful in linking clients with appropriate services.

Craig Dempsey, Forensic Therapist, Yukon Department of Justice, described the work of the community wellness court in Yukon Territory. These courts have immediate access to psychiatry, and programming related to substance abuse, violence prevention and housing initiatives. Further, case conferences happen regularly, and the client has to appear in front of court to address his or her accountability and progress. Transitional planning for when they leave is also included and considerable follow-up is done. Services can be accessed after leaving the criminal justice system for ongoing relapse prevention. Mr. Dempsey stressed that housing is a big factor and that stable living arrangements are necessary for client success.

Ms. Francine Côté described the work of the Health and Social Service Centres in Montreal, including a series of projects designed to ensure that individuals at risk can access needed services, with a focus on improving the quality of life of homeless people. She described the work of four inter-related teams: a homelessness team, an emergency psychological/social team, a mental health court, and a pact-type team. Much of the work described involved mobilizing partners in the social, health, and community networks. Ms. Côté also described the challenge of working cross-sectorally effectively given the different mandates of the participants but emphasized the need for concerted action in this regard.

Mental health courts

This panel explored the various models for mental health courts, and the experience to date with a more client-centered approach to responding to the particular needs and issues of accused with mental health concerns.

The panel was moderated by Justice Richard Schneider of the Toronto Mental Health Court. Panelists included Margaret Gallagher, defence counsel, St. John Mental Health Court, Justice Heather Perkins-McVey, Ontario Court of Justice Ottawa, Samantha Buchy, Mental Health Court Worker, Sudbury Mental Health Court, and John Phelps, Chief Federal Prosecutor, Public Prosecution Service of Canada, Yukon Regional Office.

Justice Schneider indicated that mental health courts are not “fixed programs” which operate uniformly across the county. Each court has its own method of dealing with issues and offenders. Courts discussed by panelists varied in the services they offered, the type of offenders they accepted, and the degree of responsibility they required. The panelists discussed issues such as the frequency of court sittings, the ability to deal with concurrent disorders, and dedicated teams – each court dealing with these aspects slightly differently according to their jurisdictional needs and resources.

There were, however, many common themes which were discussed and agreed upon by all panelists. All indicated that some of the biggest gaps in the criminal justice system for mental health court participants (or anyone with forensic needs) are the lack of pre-charge diversion services at the front end and appropriate post-discharge services when the offender is released from the criminal justice system. They noted the limited services that are now available are only available for men (specifically in the case of transitional housing) and many other services are not culturally sensitive to ever-growing immigrant populations becoming involved in the forensic system.

Panelists also agreed when asked about the future challenges of their respective mental health courts. Panelists indicated that sustainability of their own courts’ existence presents a constant challenge; most mental health courts operate with no extra funding and no budget. Sudbury had received a grant from the Canadian Mental Health Association to hire mental health court workers, but other courts indicated that they operated simply through a reallocation of existing resources.

Panelists also mentioned that recent and proposed criminal law reforms – specifically mandatory minimum penalties – will disproportionately impact the mentally ill and give mental health courts less leeway to deal with mentally ill offenders. There was also a concern with the proliferation of mental health courts across the country despite the lack of a comprehensive evaluation of the effectiveness of these courts.

Despite the popularity and continued development of these courts, panelists were clear that mental health courts are a short-term solution to a problem whose roots lie in the civil mental health care system.

Special populations within mental health and justice systems

This panel highlighted the diversity of clients who are captured under the “mental health and justice” category. These groups have traditionally been underserved by the current overlap of the mental health and justice systems, and require innovative approaches to their care and management. This panel was moderated by Margaret King, Assistant Deputy Minister, Community and Population Health, Alberta Health and Wellness. Panelists included Sophie Hein, Kim Pate, and Dr. Christopher Lalonde.

Sophie Hein from Laval University discussed the criminalization of Foetal Alcohol Spectrum Disorder (FASD). Specifically, she framed FASD as representing a broad spectrum of deficits, which manifest with different forms of inappropriate behaviour at different developmental stages. It is not generally caused solely by alcohol abuse, but that alcohol accounts for a large portion of the damaging factors to which the foetus was exposed. Indeed, FASD may be seen as a benchmark of larger societal failures, including alcohol abuse. Ms. Hein concluded by reiterating the following Canadian Bar Association resolutions:

- additional resources be allocated for alternatives to the current practice of criminalizing individuals with foetal alcohol spectrum disorder (FASD);
- policies be designed by federal, territorial and provincial governments to assist and enhance the lives of those with FASD and to prevent persistent over-representation of FASD affected individuals in the criminal justice system; and
- the federal government amend criminal sentencing laws to accommodate the disability of those with FASD.

Kim Pate, Executive Director, Canadian Association of Elizabeth Fry Societies, discussed the over-representation of Aboriginal women in the justice system, and indicated that this population suffers from significant mental health issues. Ideally, women as a group should be released into the community and receive treatment there. Given the reality of many offenders receiving treatment for the first time in prison, it is essential that these offenders be treated humanely. Ms. Pate also highlighted that pending legal reforms associated with recent and proposed criminal law reforms may effectively criminalize more people.

Dr. Christopher Lalonde, Associate Professor of Psychology at the University of Victoria, discussed how suicide in First Nations communities should be viewed not in totality, but by community, as they vary widely in terms of their history and current conditions. There are a number of indicators of community success including self government, land claims, control of services, cultural services, participation of women in governance, fostering of youth, education and culture. When the rates of suicide on reserve were examined from this perspective, suicide rates were much higher in communities where none of those factors were present; where many of these factors were available, in particular cultural services, suicide rates dropped significantly.

Mental health in a secure environment

This panel covered the spectrum of services, partnerships and training associated with offenders with mental health needs, focusing on those offenders housed in secure environments. The panel was chaired by Jennifer Wheatley, Director General, Mental Health, CSC. Panelists included Dr. Raj Bhatla, Glenn Thompson, and Dr. Sandy Simpson.

Dr. Bhatla, Chief of Psychiatry, Royal Ottawa Health Care Group, described the innovative partnership between the Ontario Ministry of Health and the Ministry of Community Safety and Correctional Services in running the Secure Treatment Unit of the St. Lawrence Valley Correctional and Treatment Centre in Brockville, Ontario, a prison which is also a hospital. Dr. Bhatla also highlighted the need to enhance community services and called for immediate action in realizing this goal.

Mr. Glenn Thompson, Consultant/Board Member, Healthy Minds Canada and International Institute on Special Needs Offenders and Policy Research, stressed the importance of advancing effective arguments for obtaining needed resources to address mental health needs in corrections (including community corrections). These resources, if used effectively, would ensure staff are properly trained, mental health issues are correctly identified in prisons, and efforts are made to design services with a view to avoiding stigma and maintaining a risk-based approach.

Dr. Simpson, Clinical Director, Law and Mental Health, Centre for Addiction and Mental Health in Toronto spoke about the need to address mental health issues in prisons as a health issue, not a correctional one, and to ensure that health service providers are engaged in developing and administering treatment. Dr. Simpson also stressed that when building prisons, mental health requirements should be considered at the outset. The issue of ensuring appropriate aftercare on release was also discussed.

Symposium Themes

Throughout the two-day discussion, participants identified a number of specific and recurring themes that impressed upon the problem areas identified within mental health and justice services.

Housing

A consistent observation of Symposium participants was the need for stable housing, including better transitional housing. A number of case examples were provided where individuals were moved from the justice system into the community, or diverted from court, without concomitant resources available for ensuring that housing would be available. Further, a number of examples were given where clients with forensic needs, in addition to mental health needs, were prevented from accessing transitional housing because of the stigma attached to forensic clients or to those with addictions by civil

mental health and housing services. Participants recognized that existing forensic housing did not have adequate mental health services available. It was widely recognized that stable housing could go a long way towards avoiding re-contact with the criminal justice system.

Recommendation 1: *Eligibility for transitional housing be improved to allow for better access to forensic clients with mental health and addictions needs;*

Recommendation 2: *Partnerships and shared understanding be enhanced between community resources, including corrections, housing, mental health services, and Non-Governmental Organizations.*

Integrated Teams

Many participants agreed that the Police and Crisis Teams (PACT) model, funded under the Alberta Safe Communities Initiative, was a good one and that having a coordinated team of mental health expertise alongside police at point of first contact is key for effective pre-charge diversion. There were a number of reasons cited for this being an improvement over separately operating services including: 1) that police work 24/7 where many mental health services operate on more limited hours, and 2) that this model provides police with an embedded resource for understanding the needs of individuals diagnosed with a mental illness.

Recommendation 3: *Integrated teams of police and mental health professionals be expanded and endorsed as a best practice.*

Inter-Ministry and Inter-Agency Integration

Participants expressed a general endorsement of Alberta's Safer Communities Initiative. Safe Communities brings together nine Alberta government ministries and collaborates with municipal governments, law enforcement agencies, community groups, the business sector, and social agencies to help individuals at risk, and prevent crime. It was generally agreed that efforts at building formal or informal inter-ministry and inter-agency collaboration would allow for better tracking and follow-up with clients, and a greater likelihood of providing needed services in a timely and efficient manner.

Recommendation 4: *Jurisdictions undertake similar inter-ministry collaboration in a way that suits the capacity and needs of their jurisdictions.*

Research and Data collection

While much is known about the extent of mental health challenges in the area of corrections, there is a dearth of information in other areas, including mental health issues in Aboriginal populations and immigrant populations. Many of these issues were outlined in the Environmental Scan prepared by Justice Canada prior to the Symposium. This Scan had been previously provided to FPT DMs and Ministers along with the

Compendium of FPT Initiatives related to Criminal Justice and Mental Health, prepared by Public Safety Canada. Yukon Deputy Minister Dennis Cooley, as part of the Closing Plenary, identified a need for accuracy, common definitions and a consistent data collection approach which could be achieved through the collaboration with the FPT research community.

It was also suggested that the Canadian Centre for Justice Statistics be consulted and engaged in this process, as it is currently examining the feasibility of collecting comprehensive mental health data in the criminal justice system, across FPT jurisdictions and across service areas (corrections, courts, and police). Data sharing was also identified during the panels as an issue requiring attention. This would assist not only tactically in terms of following individual cases through the various systems, but also strategically in terms of identifying trends in service access across systems, and the extent to which individuals with mental health issues start in one system, and progress or return to other systems. This would be key in identifying a) shared costs, and b) ideal points of intervention for specific client groups.

Recommendation 5: *The lack of data on mental health issues be addressed and the potential for inter-ministry discussions regarding data-sharing be explored.*

Privacy

Related to research and data collection, one of the major barriers to sharing data between services are privacy policies and underlying legislation. The issue of privacy concerns as a barrier to providing adequate mental health services to individuals was raised throughout the Symposium.

Recommendation 6: *A research report should be commissioned on how the interaction of privacy legislation and policy complicates the issue of mental health service delivery in the justice system.*

The Compendium of FPT Initiatives

Many participants expressed great praise for the usefulness of the Compendium of FPT Initiatives and Programs Related to Mental Health and Criminal Justice.

Recommendation 7: *The Compendium of FPT initiatives be updated every three years and made available as part of cross-jurisdictional resource of best practices, maintained in a database and accessible on-line.*

Mental Health Courts

There was much discussion of Mental Health Courts as one aspect of a holistic approach to addressing the rising rates of people with mental illness in the justice system. However, panellists and participants commented that mental health and problem solving courts vary widely in terms of scope, services, partnerships and clients. Also, while data

is beginning to emerge, sufficient evaluation findings with respect to Canadian mental health courts are not yet available to inform best practices and expansion. There was also concern that increased reliance on these therapeutic courts may undermine efforts to prevent the involvement of the individuals with mental illness in the justice system in the first place. Panellists shared the view that there was overreliance on these courts and that many of the approaches that mental health courts take could be achieved outside the court process, (i.e., through the availability of more front end preventative and social services and the use of diversion to appropriate community mental health and social services).

Recommendation 8: *A review should be commissioned of the available evaluations of mental health courts (both Canadian and international).*

Recommendation 9: *A rigorous evaluation should be commissioned of Canadian mental health courts to determine if therapeutic courts are achieving their goals.*

Recommendation 10: *A national conference or meeting of mental health court service providers should be developed.*

Intersectoral Approach

There was much agreement among the participants that FPT Ministries Responsible for Justice should not be the lead agencies in the area of mental health. There is a need to build on preliminary engagement with the health sector, housing and social services to form collaborative strategies and to sustain levels of engagement at every day operational levels.

Much discussion centered around the fact that the increase in the number of offenders with mental illness can be attributed to the shortcomings of the civil mental health system. The justice system is not designed to be, and should not act as, the parallel health care system to provide care for individuals with mental illness who have committed a crime.

The Symposium's organizing committee did endeavour to invite representatives from these sectors, but they were significantly underrepresented, especially at the more senior levels.

Recommendation 11: *Deputy Ministers Responsible for Justice engage their FPT Health, and Social Services counterparts with a view to the creation of a new FPT forum on the issue of mental health and its impact on the criminal justice system. FPT Deputy Ministers in these sectors should meet to discuss and establish current mandates, issues of mutual interest and how they can better collaborate in the area of mental health.*

Building the Business-Case

The cost to the justice system of dealing with offenders with mental health problems and illness is high. The cost to society of not addressing mental health issues is also high. It

would be beneficial to build a business case to demonstrate to FPT colleagues in the areas of health and social services the need to focus on early intervention and prevention and that there is a better, more efficient way of providing services to this population.

Recommendation 12: *A business case model should be developed to demonstrate that public safety could be more efficiently and effectively addressed through ministries other than the justice system, particularly with respect to the long-term benefit of inter-ministry collaboration.*

Unintended Consequences of Criminal Law Policies

Some participants suggested that recent criminal law reforms are having a profound negative impact on individuals with mental health problems and illnesses. Trends in law reform which reduce judges' flexibility to craft appropriate responses (i.e. mandatory minimum penalties) provide less opportunity to proceed creatively or differently when faced with offenders who have serious mental health problems and illnesses.

Recommendation 13: *A legislative exemption should be considered from mandatory minimum sentences and other restrictions on sentencing options in certain cases involving offenders with mental health problems and illnesses in situations where public safety is not at risk and where programs exist in the province or territory that the offender can be referred to.*

Note: The drug treatment court exemption was noted by Symposium participants as an analogous model (note that such an exemption is proposed in Bill C-10, The Safe Streets and Communities Act) with respect to mandatory minimum sentences for persons convicted of drug offences).

Addressing the issue of Stigma

One of the overarching themes of the Symposium was the challenge posed by stigma to individuals with mental illness at all points in the criminal justice system. Not only does stigma prevent some people from seeking front-line care, it may also prevent them from accessing services within the criminal justice system, including mental health courts and mental health services in the correctional service. The Mental Health Commission of Canada and some private companies such as Bell Canada have taken a leadership role in addressing the challenges presented by the stigma of mental health issues, but the message received at the Symposium was that more needs to be done.

Recommendation 14: *Deputy Ministers Responsible for Justice create a stronger link to the Mental Health Commission of Canada to determine how the FPT Justice community can contribute to reducing stigma within the justice system.*

Conclusion

Feedback collected from participants and panellists at the Symposium was overwhelmingly positive. Many indicated that this first effort to bring together stakeholders was a tremendous success. This process also showed the need to bring together a wider variety of stakeholders and to consider how FPT Ministers Responsible for Justice can engage their FPT counterparts in other sectors to effectively address the increasing challenges of mental health issues in the justice system.

Finally, it should be noted that the needs of youth with mental health issues in the justice system was highlighted as requiring on going attention and the work plan and any future collaborative efforts should ensure that the special challenges of youth are not ignored.

SUMMARY OF RECOMMENDATIONS

Long Term

Recommendation 1: *Eligibility for transitional housing be improved to allow for better access to forensic clients with mental health and addictions needs.*

Recommendation 2: *Partnerships and shared understanding be enhanced among community resources, including corrections, housing, mental health services, and Non-Governmental Organizations.*

Recommendation 3: *Integrated teams of police and mental health professionals be expanded and endorsed as a best practice.*

Recommendation 4: *Jurisdictions undertake similar inter-ministry collaboration in a way that suits the capacity and needs of their jurisdictions.*

Short Term

Recommendation 5: *The lack of data on mental health issues be addressed and the potential for inter-ministry discussions regarding data-sharing be explored.*

Recommendation 6: *A research report should be commissioned on how the interaction of privacy legislation and policy complicates the issue of mental health service delivery in the justice system.*

Recommendation 7: *The Compendium of FPT initiatives be updated every three years and made available as part of cross-jurisdictional resource of best practices, maintained in a database and accessible on-line.*

Recommendation 8: *A review should be commissioned of the available evaluations of mental health courts (both Canadian and international).*

Recommendation 9: *A rigorous evaluation should be commissioned of Canadian mental health courts to determine if therapeutic courts are achieving their goals.*

Recommendation 10: *A national conference or meeting of mental health court service providers should be developed.*

Recommendation 11: *Deputy Ministers Responsible for Justice engage their FPT Health, and Social Services counterparts with a view to the creation of a new FPT forum on the issue of mental health and its impact on the criminal justice system. FPT Deputy Ministers in these sectors should meet to discuss and establish current mandates, issues of mutual interest and how they can better collaborate in the area of mental health.*

Recommendation 12: *A business case model should be developed to demonstrate that public safety could be more efficiently and effectively addressed through ministries other than the justice system, particularly with respect to the long-term benefit of inter-ministry collaboration.*

Recommendation 13: *A legislative exemption should be considered from mandatory minimum sentences and other restrictions on sentencing options in certain cases involving offenders with mental health problems and illnesses in situations where public safety is not at risk and where programs exist in the province or territory that the offender can be referred to.*

Recommendation 14: *Deputy Ministers Responsible for Justice create a stronger link to the Mental Health Commission of Canada to determine how the FPT Justice community can contribute to reducing stigma within the justice system.*