



Justice and Mental Health

Canada's criminal justice system is a complex network of independent but procedurally connected police, prosecutors, courts, correctional agencies, and parole boards. Federal, provincial, territorial, and municipal agencies and organizations all play a part, but no agency or jurisdiction has control or ownership of the entire system. Canada's adult incarceration rate is currently third highest in the world, after United States and Hungary. We also imprison more young people than most other industrialized nations. Among those that we incarcerate are people with mental disorders. Growing numbers of individuals are falling into the 'cracks' between social services and health systems and landing in the criminal justice system. In recent years, the need to promote alternatives to imprisonment has become increasingly pressing.

SCOPE OF THE ISSUE

- Extensive closure of provincial psychiatric beds followed by lack of necessary investments in community care has resulted in swelling numbers and greater visibility of people on the streets who exhibit nuisance or "scary" behavior. Combine this with unfair stereotypes of those with mental illness, particularly their perceived risk of violence towards others, and more pressure to get them off the streets seems inevitable. With appropriate alternatives in short supply, the police have been forced to take on the role of "community mental health worker".
- The number of people with mental disorders who come into conflict with the justice system is increasing at the rate of about 10% a year, though the number of those considered violent is actually declining. Individuals with mental disorders are more vulnerable to detection and arrest for nuisance offences (e.g. trespassing, disorderly conduct), are more likely to be remanded in custody for these minor offences, and to spend disproportionately more time awaiting a sentencing disposition. Provincial jails have become crowded repositories for people with mental disorders, many of whom have been arrested for petty crimes.
- Treatment is extremely limited and correctional staff are not trained to handle inmates with mental disorders. These services are often not available, are not accessible or the inmate simply does not access them due to the stigma associated with mental illness. Recent studies of federal inmates have shown that only 48% with a major mental disorder actually reported their symptoms to a physician or a mental health professional.
- Suicide is now the leading cause of death for Canadians in correctional facilities.
- In 1997, only 25% of young offenders in Canada were dealt with through processes outside the formal justice system, compared to the US (53%), Great Britain (57%) and New Zealand (61%). Despite the acknowledgement of high rates of mental health problems among young offenders, mental health treatment is generally not included as a core element of rehabilitation.

FEDERAL ACTION

The 1996 Speech from the Throne acknowledged that Canada's criminal justice system faces major and complex challenges, and pledged to adopt a balanced approach that "will focus corrections resources on high-risk offenders ... while developing innovative alternatives to incarceration for low-risk offenders."

Drug Treatment Court

In 1998, the Federal Department of Justice help fund *Canada's first Drug Treatment Court* (DTC) in Toronto with a contribution of more than \$1.5 million under the National Strategy on Community Safety and Crime Prevention. By 2001, Vancouver became the second site to establish a DTC. This innovative court program within the legal system represents an alternative approach to helping drug offenders end the cycle of addiction, criminal behavior and jail by focusing on treatment rather than the incarceration. An estimated 50% of people with mental illness abuse illegal drugs or alcohol, compared to 15% of the general population.

The Government of Canada announced in May 2003 that it will provide up to \$23 million over five years to expand its DTC program in response to encouraging preliminary data indicating reductions in addiction and recidivism rates. The investment in drug treatment courts will support the ongoing operation of Canada's existing courts and establish as many as three new ones (locations to be determined) by 2004.

Youth Justice Renewal Initiative

The Government of Canada's Youth Justice Renewal Initiative (YJRI) was launched in May 1998. YJRI stresses the importance of developing partnerships to deal effectively with offending youth and youth at-risk in their communities. Mental health professionals were identified as important partners in this initiative. Traditionally, most mental health problems of children and adolescents are handled outside the youth justice system. Yet, the accessibility and continuity of mental health services for young people in conflict with the law, and in need of such services, remains less certain.

In an effort to foster intersectoral linkages between the mental health and youth justice systems, a series of five roundtable discussions on Mental Health and Youth Justice Renewal were held over the course of the fall 1999 and winter 2000. These forums provided experts in the fields of education, social services, arts and recreation, child advocacy and mental health, an opportunity to explore their role in preventing youth crime, dealing with youth who have committed offences and facilitating the reintegration and rehabilitation of young offenders. A summary report reflecting the views expressed by participants at the round tables is being considered by the Department of Justice in the implementation of the YJRI.

COMMUNITY RESPONSE

Police officers and mental health professionals have come together to ensure that individuals who suffer from mental disorders are not "criminalized" inappropriately, but rather are directed toward the system which is most appropriate for them in their circumstances. The *Canadian National Committee for Police/Mental Health Liaison* is a group dedicated to identifying and finding solutions to the problem of excessive police involvement with individuals who suffer from severe mental illnesses. This organization provides information, contacts and support to police officers and services to aid in their work with individuals experiencing mental illnesses. Organizational activities focus on:

- Training for police in understanding mental illness including psychosis, mood disorders and dementia
- Effective liaison models: what's out there and what could there be?
- Training for mental health professionals related to working with the criminal justice system
- Partnerships between correctional facilities, mental health facilities and the police
- Research and data collection mechanisms to support the development of "best practices"
- Less lethal uses of force
- Effective mental health legislation

Advocates for criminal justice reform (e.g. The John Howard Society of Canada and the Canadian Association of Elizabeth Fry Societies) as well as those working in the mental health system agree that successful diversion programs require more than simply diverting an individual with mental illness away from jail; they also direct the person toward adequate treatment services. The best diversion programs see participants as members of the community who require a broad range of services, including mental health and substance abuse treatment, housing and social services.

Provincial mental health courts are springing up across the country to provide low-level offenders with mental disorders the opportunity to agree to treatment and stable housing in exchange for criminal charges being deferred and dropped. However, community groups argue that there will be limited success in "de-criminalizing" those with mental illness if the mental health resources and other support services, such as housing and welfare assistance, do not exist or are inadequate. The government must make the necessary investments in these areas. Like most social problems, the solution lies in the actions of many ministries.

References available upon request.