

Provincial Human Services and Justice Coordinating Committee

**Response to the Ontario Human Rights Commission
Public Consultation Paper
“Human Rights Mental Health Strategy”**

Submitted by
Provincial Human Services and Justice Coordinating Committee
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Introduction:

The Provincial Human Services and Justice Coordinating Committee (HSJCC) commends the Ontario Human Rights Commission (OHRC) in its development of a new Human Rights Mental Health Strategy. We value this opportunity to provide feedback on the OHRC public consultation paper, and we also welcome the opportunity to engage the OHRC in discussions regarding justice, mental health and human rights issues.

Based on the *Provincial Strategy to Coordinate Human Services and Criminal Justice Systems in Ontario* [1997], the HSJCCs were established in response to a recognized need in the province to coordinate resources and services, and plan more effectively for people who are in conflict with the law. Priority consideration is for people with a serious mental illness, developmental disability, acquired brain injury, drug and alcohol addiction, and/or fetal alcohol syndrome. The HSJCCs are a joint collaboration between the Provincial Ministries of the Attorney General, Community and Social Services, Children and Youth Services, Health and Long-Term Care, and Community Safety and Correctional Services, as well as various community mental health and addictions organizations across Ontario. All Ministry representatives are ex-officio members of the HSJCCs.

The Regional HSJCCs coordinate communication and service integration planning between health, criminal justice, and developmental service organizations within specific regions, and the Local HSJCCs provide input to these regional groups. The Provincial HSJCC, consisting of regional chairs and ex-officio Ministry representatives, functions as a provincial planning body.

The Provincial HSJCC is submitting the following key messages in response to the OHRC public consultation paper. The purpose of this submission is to share our knowledge and expertise of justice and mental health issues across the province, and provide our advice and recommendations for the development of the OHRC Human Rights Mental Health Strategy.

The Provincial HSJCC recognizes the importance of the directions proposed in the OHRC public consultation paper as a starting point to addressing mental health issues from a human rights perspective. Individuals living with mental illness who come into contact with the justice system face unique human rights issues. Below are some areas of concern within the human services and justice systems that the OHRC should consider undertaking as part of its focus on human rights, mental health and criminal justice.

Areas of Concern for Justice and Mental Health:

- 1. Individuals living with mental illness who are in contact with the justice system face multiple barriers when attempting to access mental health services.** The negative impact of stigma often increases when individuals living with mental illness come into contact with the criminal justice system. Mentally disordered offenders, as well as offenders labelled “high risk” or “forensic,” are often perceived as being violent. As a result, they experience increased levels of overt and covert discrimination. In fact, information from the field indicates that mentally disordered offenders are often victimized in the correctional system, and once they are

released from custody, they are often screened out of support services by physicians, psychiatrists as well as community mental health programs. Anti-stigma campaigns and anti-discrimination initiatives are necessary to educate service providers and to help reduce the systemic discrimination that exists in the justice system and health care system against offenders with mental illness. Improved collaboration between forensic programs and the civil mental health system is required to ensure that forensic clients are integrated into their local communities.

- 2. Mentally disordered offenders who are on remand are not receiving adequate services and supports.** There are more clients on remand in Ontario than convicted clients, and many of these clients have a mental illnesses and/or addiction. Corrections services are unable to conduct psychiatric assessments and provide support for clients on remand until they have been sentenced by the court. Without a psychiatric assessment, and without a treatment plan mandated by the court, these clients on remand are not receiving adequate mental health and addictions services while they are awaiting their trial date. Across the province, mentally disordered offenders, both adults and youth, on remand are thus being held in correctional facilities without being given adequate assessments, treatments or supports. There is a need to improve the capacity of the remand centres and increase the services and supports that are being offered to mentally disordered offenders. Support from the OHRC is necessary to advocate for changes in provincial policy to better coordinate services and meet the needs of clients while they are on remand.
- 3. Collaborations between police and mental health services are working to reduce the criminalization of individuals with mental illness.** New investments have increased the access and availability of crisis intervention teams (CITs) and mobile crisis intervention teams (MCITs) in Ontario. Collaborative police/mental health initiatives are successful; however, pressures on police, CITs and MCITs are increasing. A high population density is needed to sustain full-time, around the clock, MCIT services; therefore, MCIT programs often operate out of large urban centres such as London, Ottawa and Toronto. More community resources must be put in place in urban and rural areas so that the police are not the default responders to mental health crises. In rural areas, creative police/mental health initiatives must be supported to offset the absence of MCITs. In order to reduce the criminalization of individuals with mental illness, it is necessary to increase community based crisis intervention services and the capacity of mental health and addictions programs across the province.
- 4. Mental health courts and court support programs are working to reduce the criminalization of mentally disordered offenders.** Across Ontario, mental health courts have been established by dedicated judiciaries, crown attorneys, police and community justice and mental health service providers to help divert mentally disordered offenders away from correctional institutions. However, the existing court support programs do not have the capacity to manage complex cases involving individuals with concurrent disorders and/or dual diagnosis. Information from the field indicates that an estimated 80 percent of people referred to mental health services from the justice system have an addiction problem or concurrent disorder. In order to reduce the criminalization of mentally disordered offenders, further investments are

needed to increase the capacity of the existing court support programs and expand the range of programs available to individuals with concurrent disorders and/or dual diagnosis.

- 5. Police records that results from contact with the police under the *Mental Health Act* pose barriers for individuals with mental illness.** When police officers escort individuals in crisis to a hospital voluntarily or involuntarily through apprehension under the *Mental Health Act*, this generates an occurrence with Police Services and creates a non-criminal police record. This type of police file frequently has negative repercussions for individuals if they are required to receive a police records check or a “vulnerable sector screening” for the purpose of working or volunteering with a vulnerable population. Having a police record also increases the stigma experienced by individuals with mental illness. As well, people who have mental health police records may also be refused entry into the United States at the border.

The Provincial HSJCC has high regard for community safety, and understands that police mental health records provide important information about a client’s history to police officers responding to mental health crises. However, mental health apprehension records should only be accessible to police officers to assist them to better respond to mental health crisis situations. Support from the OHRC is necessary to create law reform to ensure a standardized protocol across the province regarding the proper use of police mental health records.

- 6. Individuals from racialized communities are over-represented in the criminal justice system.** Across the province, individuals from Aboriginal and ethno-racial communities are coming into contact with the justice system and being incarcerated. Individuals from these communities have unique needs and face multiple barriers to accessing the social determinants of health, including housing, education, and employment. These communities are vulnerable to mental illness, addictions as well as criminalization. Support from the OHRC is needed to foster supportive communities and develop strengths-based approaches to protecting these individuals from mental illness, addictions as well as preventing them from coming into contact with the justice system. The OHRC should advocate for improved access to employment opportunities through the expansion of recognition of foreign trained professionals. As well, the OHRC should advocate for infrastructure and economic development investments in First Nations communities. It is recommended that the OHRC also advocate that the Provincial Government develop targets to improve access to mental health and addiction services for ethno-racial communities, including improving access to language interpretation.

- 7. Cross-sector education is needed for all sectors in the human services and justice systems (i.e. criminal justice, mental health, addictions, acquired brain injury, dual diagnosis and fetal alcohol spectrum disorder).** As part of strengthening the justice and mental health workforce, it is important to educate human services staff regarding the justice system, and educate justice staff regarding the mental health and human services systems. In particular, human rights and cultural competency training is required for service providers to equip them to address the unique needs of the growing population of clients from diverse backgrounds who are experiencing mental illness and coming into contact with the justice system. Comprehensive cross-sector education is necessary to adequately coordinate human services and justice programs and initiatives across the province.

The Provincial HSJCC appreciates this opportunity to provide feedback to the Ontario Human Rights Commission. We recommend that the unique needs of individuals living with mental illness who come into contact with the justice system be addressed and the preceding issues be considered when moving forward with the OHRC Human Rights Mental Health strategy. The Provincial HSJCC welcomes the opportunity to partner with the OHRC regarding justice, mental health and human rights issues.

For further information and discussion, please contact:

Vicky Huehn

Co-Chair, Provincial HSJCC
Executive Director,
Frontenac Community Mental Health Services
613-544-1356 ext. 2401
vhuehn@fcmhs.ca

Lisa Cameron

Co-Chair, Provincial HSJCC
Crown Attorney,
Kawartha Lakes and Halliburton
705-324-1420 ext. 255
lisa.cameron@ontario.ca