RANGE OF FORENSIC SERVICES IN ONTARIO

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Developed by the

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CONTENTS

A. INTRODUCTION

The purpose of this document is to identify and define the range of forensic services in Ontario that are required to provide the quality of care and supports necessary for the safe reintegration of mentally disordered accused and offenders into the least restrictive environment consistent with public safety.

This document outlines the basic components of the forensic programs that comprise the comprehensive forensic mental health system for Ontario.

This forensic mental health system must be integrated into the broader government mental health and criminal justice policy framework and accordingly, incorporates several functions that are essential to an integrated system. These functions impact directly and indirectly on the efficient and effective delivery of forensic mental health services throughout the province. Accordingly, violence prevention and court diversion services are considered of equal importance to assessment, inpatient, outpatient, consultation, and specialty services. The coordination of these forensic services across the province is also an integral component of the forensic mental health service system itself.

All hospitals will offer a common set of core services. Not all designated adult forensic programs offer the services described in Section 8. However, the system is configured so that the needs of all forensic patients in the province are met

In general terms, these services fall into two broad categories. Services required by the judicial process to conduct the trial which include assessment and treatment services provided to people remanded by the courts and tertiary treatment and rehabilitation services required by the Ontario Review Board in cases where the authority over the person passes to the ORB. The latter services provide mental health care and maintain a good quality of life for the person, while ensuring their safety and that of the community. In addition, the forensic system provides adjunctive services and consultation to the mental health system and in particular, to mental health criminal justice services such as court support programs.

Every forensic unit has both assessment/treatment remand beds and long-term treatment and rehabilitation beds and various clinical services appropriate to the population they serve. The forensic units also provide treatment and support to forensic out-patients in the community, including high support transitional services.

Historical Background

Forensic mental health services for adults include the assessment, management and treatment of mentally disordered persons in conflict with the law. These services are mandated by the *Criminal Code of Canada (CCC)* that requires the Province of Ontario to provide the forensic services defined therein.

Under the *CCC* the Minister of Health for a province designates specific hospitals as forensic service providers. In Ontario, the Minister has designated the Centre for Addiction and Mental Health, Mental Health Centre Penetanguishene, North East Mental Health Centre (North Bay), Providence Care (Kingston), Royal Ottawa Health Care Group (Ottawa and Brockville), St. Joseph's Health Care (St. Thomas), St. Joseph's Healthcare Hamilton's Centre for Mountain Health Services, (Hamilton), Thunder Bay Regional Health Sciences Centre, Whitby Mental Health Centre.

Changes were made to the *Criminal Code (Canada)*, effective after February 1992. At that time the insanity provisions were repealed and replaced with Part XX.1 of the *Code*. The amendments in Part XX.1 extended the application of the *Code's* mental disorder provisions to less serious summary conviction offences and significantly extended the ability of courts to access mental health services based on the needs of the criminal justice system rather than clinical assessments of the accused person's condition.

These changes increased the demand for forensic services. With respect to long-term treatment and rehabilitation beds and resources, the rate of increase had been very slow during the period between 1987 and 1993. During that period, there were typically just over 400 individuals under the authority of the Ontario Review Board. After the changes to the Criminal Code, in the period between 1993 and1999, there was a steep increase (approximately 150%) in these numbers to slightly over 1,000 individuals. The increase leveled off in 2000 and the numbers of individuals have stayed at that approximate level since then.

The nature of the impact on the level of demand for forensic fitness assessments, not criminally responsible (NCR) assessments and treatment orders by Ontario's courts is less well described by the data. Overall, in the past years it appears from the available information that the demand level for assessment/treatment remand beds (ATR) and services is generally increasing at a rate significantly higher than the increase in demand for long-term treatment and rehabilitation services.

Another factor may play a very significant role in the increased pressures on the forensic system. In the same 20 year period of time, there was a major increase in the numbers of homeless individuals, many of whom are suffering from mental illness or struggling with substance abuse and addiction[1].

In response to these increased service pressures, between 1995 and 2002, ninety seven additional forensic beds were added. By the end of 2007 an additional 90 will begin operation together with new resources to support community repatriation of appropriate individuals. In addition, the ability of the forensic system to 'self insure' against local surges in demand has been improved through a new service that makes information on bed vacancies across the province available on line to the courts.

In parallel, there has been a major commitment of new funding ($50M) for the Service Enhancement Initiative (SEI) designed to keep people with mental illness out of the criminal justice system through a range of services such as crisis teams, safe beds, supportive housing, case managers and court diversion services. The SEI services are intended to prevent contact with the criminal justice system or to divert people who are already involved and to assist people with mental illness who are coming out of detention to re-integrate successfully into the community linked to community mental health services.

In the context of ongoing service pressures, the forensic system and related mental health and criminal justice systems are striving to maximize the benefit of the resources available to provide the forensic services needed by Ontario.

In addition, since the Health Services Restructuring Commission released its recommendations there have been major changes to the hospitals with forensic units. All but one hospital have been divested from the Ministry of Health and Long-Term Care to independent hospital corporations.

[1] While the increase in homelessness is often attributed to psychiatric bed downsizing, since 1980 the number of psychiatric beds has remained constant. In 1980 there were 4,948 psychiatric beds while in 2004, there were 4,928. In addition, in 1980 there were approximately 30 supportive housing beds in Ontario whereas in 2006 there are approximately 12,000.

Prior to this divestment, all forensic units used a common set of policies and procedures and were governed directly by the MOHLTC. With divestment, each hospital has developed its own policies and procedures. As a result, the is a need for a renewed framework with respect to forensic services that will ensure overall consistency while allowing for flexibility in the delivery methods needed due to the nature of the individual facilities and their service contexts.

The Range of Services document is intended to provide such a framework.

B. Vision and Mission of the Forensic Mental Health System of Ontario

VISION STATEMENT

THE ONTARIO FORENSIC SYSTEM WILL PROVIDE COMPREHENSIVE INTEGRATED MENTAL HEALTH SERVICES TO FORENSIC PATIENTS[2] AND SPECIALIZED PSYCHIATRIC SERVICES FOR ADULTS TO THE CRIMINAL JUSTICE SYSTEM.

MISSION STATEMENT

The Ontario Forensic Mental Health System will provide inpatient and outpatient services as part of a comprehensive integrated forensic mental health system that serves forensic patients and the criminal justice system. Designated forensic services will provide:

- high quality mental health treatments and services that are patient centered, empirically validated and consistent with best contemporary practices

- mental health services to the criminal justice system to assist it to fulfill its mandate by providing appropriate assessment and treatment services for the mentally disordered offender in a timely manner as required

- forensic environments that respect the liberty interests of the forensic patient and support the best possible quality of life for individuals, using the least restrictive treatment and rehabilitation strategies and environments, including community re-integration, consistent with the well being of the individual, safety of the public and lawful requirements

- coordinate its operations as a provincial system so as to optimize resource utilization, provide comprehensive mental health services, and strengthen the mental health system at the local, regional and provincial levels

- advice and consultation to the Ministry of Health and Long-term Care, Local Health Integration Networks and other service providers

[2] A forensic patient is a person who suffers, or appears to suffer, from a major mental disorder, is in conflict with the law and is under the authority of the courts or the Ontario Review Board under Part XX.I – Mental Disorder – of the Criminal Code of Canada.

C. RANGE OF FORENSIC SERVICES

The forensic service system incorporates the capacities and services outlined below.

1. KNOWLEDGE CREATION AND KNOWLEDGE TRANSFER

1.1. Public Education

Public education directed toward the community, provided by regional Forensic Services Programs, University Divisions of Forensic Psychiatry and the Provincial Forensic Hospital, to promote better understanding of mentally disordered accused and offenders. This increase in knowledge assists in the mentally disordered offenders' transition to, and acceptance by, the local community. A regional approach to education involving consumers, families, and interested citizens is utilized to promote community acceptance and responsibility. Effective communication links are maintained with local media, school boards, government, citizen groups, agencies, consumer/survivor groups and other organizations.

1.2. Education of Service Providers

Education directed toward professionals and service providers working with community mental health, developmental disability and child and youth services, provided by regional Forensic Services Programs, University Divisions of Forensic Psychiatry and the Provincial Forensic Hospital, to promote a better understanding of mentally disordered accused and offenders. This increase in knowledge assists in the mentally disordered accused and offenders' acceptance of and transition to caseloads of these agencies.

1.3. Education of Physicians, Nurses and Allied Professionals

The regional Forensic Services Programs and the Provincial Forensic Hospital are resources to educational institutions engaged in training of individuals for careers in the health care sector. Specifically, the forensic programs maintain relationships with programs for the training of physicians interested in forensic psychiatry, nurses and allied health professionals (e.g., psychologists, social workers, and occupational therapists). Educational services within the forensic/correctional area are, whenever possible, undertaken jointly with other ministries and with participating Academic Health Sciences Centres.

1.4. Forensic System Information

The appropriate sizing and configuration of the Ontario forensic mental health system is determined over time following consultation with all stakeholders and the consideration of valid demographic, demand, and utilization data in addition to projection of future trends.

Each regional Forensic Services Program and the Provincial Forensic Hospital generates and submits data as required by the Ministry of Health and Long-Term Care or the Local Health Integration Networks. Data includes information contributed to,

- Management Information Systems,
- the Canadian Institute of Health Information,
- the Provincial Forensic Bed Registry and

- Periodic inventories of services and
- Other systems as required.

Submission of this data supports improvements to forensic health system operations, system planning, and supports research and quality improvement initiatives. In addition the data and analysis are fed back to forensic facilities to assist them with management and clinical decision making.

Data in the Provincial Forensic Bed Registry enables the management of provincial resources and supports the work of Ontario courts with respect to orders made pursuant to the Criminal Code of Canada.

Other stakeholders include, but are not be limited to the Ministry of the Attorney General, the Ministry of the Solicitor General, the Ministry of Community and Social Services, the Ministry of Correctional Services, Forensic Program Directors, the Ontario Review Board, and Academic Health Sciences Centres affiliated with the Ontario forensic system.

1.5. Research

The regional Forensic Services Programs and the Provincial Forensic Hospital are affiliated with recognized University Divisions of Forensic Psychiatry, or their equivalent to the greatest degree practicable. There is an acknowledged joint responsibility for conducting forensic research, identifying best practices, and educating professionals (health, legal, correctional) in forensic mental health specialization.

Research is a vital element in developing new knowledge and in sustaining quality of service at traditional high levels. Forensic services will encourage research on biological and social determinants of criminality in relation to mental conditions, health services and epidemiological research as well as focusing on risk assessment, risk management and ongoing clinical needs assessment in relation to dedicated forensic psychiatric programs.

Quality Improvement

Information about the forensic system is used to develop and improve understanding of outcome measures, measure the performance of programs with respect to assessment, treatment and community reintegration services. Treatment programs and protocols are in place in the each facility to support quality improvement initiatives, facilitate the adoption of best practices and promote the integration of research findings into practice.

2. DIVERSION SERVICES

2.1. Administrative Diversion

The forensic services collaborate with and support programs and services established to divert people with serious mental illness from the criminal justice system. This collaboration is focused through the Human Services and Justice Coordinating Committees across the province and their associated diversion networks.

The objective of Administrative Diversion is to secure appropriate mental health services for individuals with particular clinical needs without invoking the controls and sanctions available in the Criminal Code, as well as to reduce repeat offending by treatment of the mental disorder. The diversion mechanisms include the dropping or staying of the charge or other procedures available to the Crown Attorney or police. Persons subject to this process are not appropriate referrals to a specialized regional Forensic Services Program.

2.2. Clinical Diversion

With respect to clinical diversion, forensic programs collaborate with and support programs and services established to divert people with serious mental illness from the criminal justice system and mental health courts. This collaboration is focused through the Human Services and Justice Coordinating Committees across the province and their associated diversion networks.

With an accused person's consent, subject to local demand and service configuration, clinical diversion involves the evaluation of individuals, charged with a criminal offence that present as having a mental disorder and may be detained under the Mental Health Act of Ontario. These individuals are evaluated by a clinician in the local court, mental health court, police cells or detention centre. Those who may be candidates for involuntary hospitalization under the Mental Health Act of Ontario may be referred directly to general psychiatry or in specific circumstances to the regional Forensic Services Program (see below). The objective of this process is that charges may be withdrawn or stayed by the Crown Attorney.

3. ASSESSMENT SERVICES

3.1. Limited Psychiatric Assessment

The regional Forensic Services Program and Provincial Forensic Hospital psychiatrists, and/or other forensic clinicians, undertake brief psychiatric assessments of mentally disordered accused in order to provide opinion, evidence or consultation regarding the issues of fitness to stand trial and need for hospitalization.

These assessments may be undertaken at the request of the Crown Attorney or defence counsel, on a fee-for-service basis, or for the court in response to a Form 48 under Section 672.11 of the Criminal Code of Canada (CCC). The regional Forensic Services Programs and the Provincial Forensic Hospital at the Mental Health Centre Penetanguishene may offer limited psychiatric assessment, in response to a Form 48, at the hospital site, court or detention site. Where the assessment is conducted at the hospital site, the accused is transported from detention to the hospital and returned to detention the same day. Brief assessments do not involve inpatient hospital admission.

However, if, in the opinion of the assessor, a more comprehensive inpatient assessment is required, this may be arranged pursuant to Section 672.11 CCC.

3.2. Hospital Remands (Section 672.11 Criminal Code of Canada)

The regional Forensic Services Programs and the Provincial Forensic Hospital assess mentally disordered accused that are subject to Assessment Orders under Section 672.11 of the Criminal Code of Canada.

The resources allocated for these assessments include assessment/ treatment remand beds sufficient to accommodate demand, sufficient specialized clinical staff to enable assessments to be completed in a timely manner, access to medical diagnostic services, and a physical plant that balances the health care and safety needs of the accused with the safety of co-patients, staff and the community.

Mentally disordered accused that are subject to an Assessment Order should be admitted to hospital within 5 business days of the Order being issued by the Court. Those patients who require court-ordered assessment at a level of security beyond that available at the assessment/treatment remand unit of designated forensic units will be assessed at the Provincial Forensic Hospital.

Pursuant to the legal framework in the Criminal Code, court orders can include both a assessment to determine if a person is fit stand trial and a “not criminally responsible” assessment on the same order although it is preferred that they be done on separate orders.

3.3. Treatment Orders (Sections 672.58 – 672.62 of the Criminal Code of Canada)

The regional Forensic Services Programs and the Provincial Forensic Hospital provide treatment to mentally disordered accused that are subject to Orders under Section 672.58 – 672.62 of the Criminal Code of Canada. Resources allocated for these assessments include sufficient assessment/treatment remand beds to accommodate regional demand, sufficient specialized clinical staff to enable that treatment can be provided in a timely manner, access to medical diagnostic services, and a physical plant that balances the health care and safety needs of the accused with the safety of co-patients, staff and the community.

Before a Treatment Order is issued, the hospital’s designated representative (Person in Charge or the person to whom responsibility for the treatment of the accused is assigned by the Court) must consent to the admission, including the date when the admission will take place.

Those patients who require a high security service for court-ordered treatment may be sent to the Provincial Forensic Hospital.

4. FORENSIC INPATIENT SERVICES

Inpatient regional Forensic Services Programs and the Provincial Forensic Hospital do not have the flexibility to increase or decrease bed capacity as necessitated by surges in demand arising from lawful orders of the Court or Ontario Review Board dispositions. A priority consideration for every forensic program request for admission is the need to manage the safety of other patients, the facility’s staff and the community at large.

4.1. Short Term Crisis Service

Treatment of people with serious mental illness is ordinarily provided in a Schedule 1 hospital. Inmates of correctional facilities who have mental health problems can be provided with mental health care in the remand or correctional centre where they are detained. The St. Lawrence Valley Treatment Unit is a Schedule 1 facility operated by the Ministry of Community Safety and Correctional Services that is responsible for the provision of psychiatric treatment to provincial inmates where circumstances require more specialized, intensive, or prolonged treatment than may be available in other provincial correctional facilities. (See 5.2)

In exceptional circumstances, where in the opinion of the Regional Forensic Services Program the specialized expertise and/or physical resources of the provincial forensic mental health system are the only appropriate resources that could prevent serious bodily harm to a person in a provincial corrections facility, or to others, the person may be accepted on transfer to the Regional Forensic Services Program or, if necessary, to the Provincial Forensic Hospital. In all cases of transfer, a written agreement, where appropriate, will be in place that specifies the arrangements for the return of the patient to the referring correctional facility when, in the opinion of the Regional Forensic Services Program or Provincial Forensic Hospital, the patient is a suitable candidate for return.

4.2. Short Term Stabilization Service

Hospital forensic programs have capacity to readmit accused persons who are conditionally discharged or detained in the community and who require a short readmission for stabilization.

4.3. Secure Short -Term Assessment & Treatment

The regional Forensic Services Programs and the Provincial Forensic Hospital conduct assessments regarding fitness to stand trial and criminal responsibility of mentally disordered accused referred by the legal system. Through the forensic application of behavioural sciences, forensic programs provide short to medium term, court ordered treatment or, on consent of all parties, treatment of mentally disordered offenders.

4.4. Rehabilitation and Community Reintegration Services

Rehabilitation and Community Reintegration Services are programs designed to facilitate return to community life at the earliest reasonable opportunity by the application of a psychosocial rehabilitation model of care. Forensic patients suitable for this service are those who are expected to have significant, independent community access within two years of admission to the program, or those admitted immediately following a finding of Unfit or Not Criminally Responsible (NCR) and for whom placement decisions have not been finalized.

Programs will emphasize close psychiatric support, relapse prevention, risk management, education, occupational and vocational preparation, and establishment and maintenance of social supports (see Community Supports). Assessment and treatment facilities must provide step-down transitional programming to support patients in achieving their optimal level of functioning.

Accused persons with a court order for admission and who are remanded to a correctional facility pending admission to a forensic program will have first priority for admission. Accused persons who are already in a forensic hospital bed and who have

an Ontario Review Board disposition for transfer to another forensic program are transferred as quickly as possible, but no later than 90 days after the conclusion of the appeal period.

The Ministry of Health and Long-Term Care has allocated long-term treatment and rehabilitation beds to each regional Forensic Services Program and to the Provincial Forensic Hospital to provide for an admission from the courts, or from any other facility, of any person who becomes subject to a Disposition of the court or the Ontario Review Board directing them to that program.

4.5. Provincial Forensic Hospital

Some mentally disordered offenders who have committed a violent crime and are at high risk of reoffending because of their mental illness require placement in a highly secure hospital setting. These patients require secure treatment and are not suitable candidates for significant community access within two years. Consistent with *Mental Health Reform* initiatives and Ministry policy articulated in *Making It Happen*, and the Report of the Expert Advisory Panel on Forensic Services, these services will be provided at a single provincial site designated as the Provincial Forensic Hospital.

The Provincial Forensic Hospital is a facility designed and resourced to serve persons who are not permitted significant community access and who require services for the treatment and management of highly disturbed behaviour and/or to maximize the quality of life where there is significant likelihood of longer-term detention in hospital. In order to do so, the Provincial Forensic Hospital provides privacy, a wide variety of vocational, educational, recreational activities and significant freedom of movement within a highly secure perimeter.

Services provided by the Provincial Forensic Hospital emphasize quality of life issues by ensuring access to a variety of diversional activities and by providing for access to a broad range of therapeutic, educational and vocational activities within the secure perimeter. Clinical program elements emphasize insight into illness and risk factors, coping with anger and other high risk internal states, sexual preferences and other needs areas that require concentrated attention in the rehabilitation phase prior to the point when risk can be managed at a lower level of security without subjecting the public to unacceptable risk to their safety. Program development is with the collaboration of the Academic Health Sciences Programs and coordinated with other regional Forensic Services Programs.

The Provincial Forensic Hospital also serves a small number of patients within the Ontario forensic system who represent uniquely difficult challenges for institutional care. These are patients who engage in behaviours such as repetitive institutional violence, represent very high risks for escape, engage in sexual predation within the institutional setting, engage in fire setting behaviour or are seriously regressed.

5. OTHER INPATIENT SERVICES

Forensic beds are funded to serve persons that are ordered admitted by the courts or the Ontario Review Board. In extraordinary circumstances, non-forensic patients may be admitted to forensic programs but only with the prior approval of the Head of the respective program. Section 22 assessments are considered forensic assessment for these purposes.

5.1. Forensic Services under the Mental Health Act [1]

Forensic programs provide services to courts with respect to various legal requirements and procedures of the Mental Health Act.

5.1.1. Section s.21 - Examination (Form 6)

A judge may order an examination under s.21 where the judge has reason to believe that a person who appears before him/her suffers from mental disorder. This applies to a person charged with or convicted of an offence. The judge may order the person to attend at a psychiatric facility for examination. This section is also applied to persons who are out of custody on bail or other recognizance.

5.1.2. Section 22 - Admission (Form 8) [2]

Forensic programs can admit a person under s.22, where the judge has reason to believe that a person who appears before him/her suffers from mental disorder and orders an admission. This applies to a person in custody charged with an offence.

5.2. High Risk/Violent Patients[3]:

Forensic programs may be of assistance with the management of people exhibiting high-risk behaviours by offering consultation to programs and/or physicians attending to these patients. In exceptional circumstances, where in the opinion of the regional Forensic Services Program the specialized expertise and/or physical resources of the provincial forensic system are the only appropriate setting that could prevent serious bodily harm to the patient or other persons, the patient may be accepted on transfer to the regional Forensic Services Program or, if necessary, to the Provincial Forensic Hospital.

In all cases of transfer, a written agreement where appropriate will be in place that specifies the arrangements for the return of the patient to the referring program or physician when, in the opinion of the regional Forensic Services Program or Provincial Forensic Hospital, the patient is a suitable candidate for return to the referring program/physician.

Regional Forensic Services Programs will accept referrals only for civilly committed individuals who are already on involuntary certificates and for whom a written agreement exists for repatriation.

6. CONSULTATION SERVICES

6.1. Consultation to Community Agencies and Practitioners

Regional Forensic Services Programs and the Provincial Forensic Hospital consider consultation requests from within their region/catchment area. These requests for specialized forensic consultation may be made by professionals in private practice, community agencies (e.g., community mental health programs) and governmental agencies (e.g., probation, dual diagnosis services, developmental disabilities providers, corrections, court outreach services) with regard to the convergence of mental disorder and criminal conduct.

Access to specialized forensic consultation is a valued resource for clinicians and service providers in the community who are providing case management or other services to a person with an Ontario Review Board disposition or who presents with

clinical challenges involving such issues as risk for violence and/or sexual violence, fire-setting, and other behaviour likely to represent a significant threat to public safety. Timely access to consultation services is an important factor in supporting community agencies and other clinicians who are managing risks presented by these patients.

6.2. Consultation to other Psychiatric Inpatient Programs

The regional Forensic Services Programs provide consultation/liaison services to inpatient units within their facilities recognizing that these professionals have unique knowledge, experience and expertise that are of valuable assistance in the treatment of patients.

Consultations assist in facilitating timely treatment/management decisions by the consulting clinicians, thereby enhancing efficiency and reducing cumulative risk to the safety of others. The consultation process generally does not result in the transfer of clinical responsibility to the regional Forensic Services Program. Regional Forensic Services Programs offer forensic consultation for the purposes of assisting the consulting agent with case management, strategic planning, or public relations regarding the reintegration of persons with mental disorder into the community.

The Provincial Forensic Hospital provides similar consultation and support to the regional Forensic Services Programs.

6.3. Young Offenders:

The Ministry of Children and Youth Services has the lead responsibility for young offenders in Ontario, including provision of support to the courts and criminal justice system. The forensic system provides consultation support when requested in the area of forensic services.

7. OUTPATIENT SERVICES

7.1. Forensic Outreach Teams

Forensic outreach teams are an integral component of forensic programs. Typically forensic outreach teams are multi-disciplinary in make-up and play an important role in the safe and successful re-integration of forensic patients into the community. Intensive rehabilitation efforts continue in the community setting where in-vivo skill training is made possible. Forensic patients served by forensic outreach teams remain on dispositions of the Ontario Review Board for varying amounts of time once discharged to the community. Forensic outreach teams take responsibility for the ongoing assessment and management of risk as patients establish themselves in their new environment. These teams work closely with other community-based agencies to link patients with the appropriate community supports (e.g. ACT teams, CMHA, residential services etc.) in order to ultimately transition patients from the forensic system. Forensic outreach teams use their forensic knowledge and clinical expertise to make recommendations to the ORB regarding a patient's suitability for Absolute Discharge from the forensic system.

7.2. Case Management and Outreach for Hospital Outpatients

Hospital based outpatient teams associated with general rehabilitation psychiatry services provide community supervision and support for low risk forensic patients, or those at somewhat higher risk but with non-violent histories. Ideally these are multi-disciplinary teams with a focus on rehabilitation.

Services may be provided on a mobile basis, visiting patients in their home or other settings. The regional Forensic Services Programs and the Provincial Forensic Hospital will maintain ongoing family support initiatives, including counseling and information sessions, education of families, limited outreach and assistance in maintaining contact families, recognizing that community tenure is more likely to be sustained and successful with a functioning family unit to provide support.

Regional Forensic Services Programs provide the necessary consultation and legal liaison supports to teams engaged in this activity. Please note that the regional Forensic Services Programs will supervise those patients at higher risk for re-offending.

7.3. Case Management and Outreach for Community Transition

Community-based Assertive Community Treatment Teams (ACTTs) and case management programs serve as adjuncts to services provided by regional Forensic Services Programs to meet the community-based needs of forensic patients.

Case management and ACT Team services for patients with an Ontario Review Board disposition by community-based agencies is enhanced and supported by the provision of training and orientation, professional consultation services, service protocols and admission of patients to stabilization beds when required.

7.4. Residential Support

7.4.1. Supportive Housing

Length of stay in a hospital is, in many cases, directly related to access to appropriate community accommodation. Community-based supportive housing assists patients to acquire the skills necessary for successful re-integration with the general community. Successful tenure in the community will reduce the likelihood of re-hospitalization during the critical first months of community placement.

Regional Forensic Services Programs provide support and consultation to community mental health housing and support providers to facilitate safe re-integration of mentally disordered accused and offenders into the community.

7.4.2. Specialized Transitional Rehabilitative Housing

Transitional rehabilitation housing programs (TRHPs) that provide enhanced supportive housing service to forensic patients placed in the community have been established. These programs will be evaluated with respect to whether such models are effective in assisting persons with an ORB disposition that allows community placement to reintegrate into the community. These are operated by community agencies in close collaboration with the forensic program. The forensic program will provide education, consultation and staff support to provide the clinical capacity required by the TRHPs.

7.4.3. Transitional case managers:

Transitional case managers have been allocated to each forensic program and to a range of community services, to provide services that focus specifically on increasing the throughput on forensic programs by freeing secure beds through creating and supporting community placements of appropriate individuals

The case load is made up exclusively of persons with an ORB disposition that allows community placement, and who are referred while an inpatient in a secure forensic bed. These persons must also be appropriate for community placement as determined by the hospital in charge.

8. SPECIALTY SERVICES

8.1. Dangerous Offender Evaluations

A dangerous offender evaluation, or pre-sentence risk assessment or pre-sentence report, for criminal justice system purposes normally requires the Crown or defence to make arrangements with the expert of their choice and assume responsibility for the expert's account. A psychiatric facility can assist in various ways (e.g. freeing up the expert from other duties) and can advise the Crown or defence about the process for obtaining the desired assessment. The accused should continue to be detained in a correctional setting, but the Form 6 or other Order may permit him/her to be taken to the psychiatric facility for one or more out-patient visits, if the senior physician or other authorized person at the facility consents to the Form 6 or other Order.

For further clarity, regional Forensic Services Programs and the Provincial Forensic Hospital do not provide dangerous offender (DO) evaluations on an inpatient basis except in exceptional circumstances, at the discretion of the person in charge of the facility, where resources and expertise permit.

8.2. Specialty Clinics

Regional Forensic Programs and the Provincial Forensic Hospital operate specialty clinics for their inpatients, such as for sexual deviation, violence, impulse control disorders, fire setting, etc. These specialty clinics may be made available to other regional Forensic Services Programs. A regional Forensic Program may also offer other specialized services based on regional needs (e.g., specialty services for Aboriginal peoples).

Such programs may also be offered on an outpatient basis upon referral, to appropriate non-forensic patients or individuals who may benefit from them, including persons on probation or parole.

The requirement for specialty clinics will be informed by monitoring of clinical trends in the forensic population at both facility and provincial levels via forensic information processes. Specialty clinical services will be consistent with best practice principles.

9. PROVINCIAL COORDINATION SERVICES

9.1. Forensic Directors Group

Each designated forensic hospital[4] providing services to adults will have representation on the provincial Forensic Directors Group (FDG). The FDG provides a vehicle for information exchange and coordination between the MOHLTC and the forensic programs, as well as a forum for the identification of emerging issues and opportunities. It also serves as an expert resource and advisor to the MOHLTC with respect to the forensic system of Ontario.

9.2. Regional Forensic Planning/Coordination Structure

Many regions of Ontario have a planning/coordinating structure to ensure the coordination of services between various sites served by regional Forensic Services Programs. Such structures also facilitate and support strong relationships with the affiliated Academic Health Sciences groups in the region. Given the role of the Local Health Integration Networks (LHINs), such forensic planning and coordination structures maintain ongoing liaison with LHINs and collaborate with LHIN activities as appropriate.

9.3. Human Services and Justice Coordinating Committees (HSJCC)

The purpose of these committees is to coordinate the provision of services to the benefit of the mentally ill patient and community in such a manner as to make the most efficient use of available resources. The benefits of HSJCC activity are improved quality of service and life for patients, enhanced public safety and increased cross-sector service and system efficiencies.

These committees are comprised of representatives from agencies providing services to the mentally ill patient who has come into contact with the criminal justice system and include police, Crown Attorneys, community mental health and addiction agencies, local detention facilities, defence bar, probation and parole, the judiciary, etc. The forensic programs play a key role in this area and participation in the HSJCCs is important to ensure that forensic programs are represented. Each regional Forensic Services Program endeavours to maintain active participation in a regional Human Services and Justice Coordinating Committee (HSJCC).

The Human Services and Justice Coordination Provincial Initiative is funded through the Ministry of Health and Long-Term Care. The HSJCC structure across the province includes: 1 Provincial Committee, 14 Regional Committees and 34 Local Committees. Local committee representation is mandated for the Regional Committees and the Chairs of the Regional Committees along with interministerial representation comprise the Provincial Coordinating Committee.

RANGE OF FORENSIC SERVICES IN ONTARIO

Appendix A

Security Designations Framework for Forensic Programs in Ontario

Preamble:

The Ontario forensic mental health system is comprised of ten regional forensic programs and a single high security facility. The prototypic regional program's services are described in the Range of Forensic Services in Ontario document. The definition of *Forensic Patients* used in this document is consistent with the definition of 'Forensic Client' articulated in the Forensic Expert Advisory Panel document entitled "Assessment, Treatment and Community Reintegration of the Mentally Disordered Offender" (December, 2002).

Facilities housing regional forensic programs vary considerably; some are situated in new purpose-designed facilities whereas others are situated in general ward areas of former provincial psychiatric hospitals. Of all the hospitals that operate regional forensic programs, only one (Penetanguishene) is owned and operated by the government. All others are owned by Public Hospital Corporations.

Notwithstanding the diverse ownership of these hospitals, forensic mental health has been identified by the government as a provincial program. Provincial programs require coordination to ensure the provision of an appropriate range of services across hospitals and regions. An important part of this coordination should include an agreed lexicon and agreed standards with respect to security designations.

Background:

There are currently three terms in common use to describe the level of security offered by forensic programs in Ontario; maximum, medium, and minimum. There is only one 'maximum' secure facility, the Oak Ridge division of the Mental Health Centre Penetanguishene. Most regional forensic programs have self-designated various parts of their facilities as being 'medium' or 'minimum' secure, but there is no standardization or consistency in the use of these terms.

Patients detained in regional forensic programs mostly fall into two groups; those undergoing psychiatric assessments ordered by the court during a criminal trial, and those detained subject to the jurisdiction of the Ontario Review Board (ORB). Psychiatric assessments ordered by the courts are conducted throughout the province's forensic programs at all levels of security. Courts and hospitals engage in informal discussions regarding the appropriate placement of an accused given the risks to be managed and the abilities of the various programs to manage them. For patients subject to detention orders of the ORB, the requirement that they must be detained in the least onerous and least restrictive circumstance consistent with public safety is critical. In consequence, the ORB has taken a particular interest in physical security designations used by regional forensic programs in the Ontario mental health system. The Board has a duty to enquire into, and is entitled to receive information relating to security and restriction, in the context of disposition hearings.

As hospital forensic programs evolved in Ontario, the lack of codified physical security standards (i.e. types of windows, furniture, locking systems, surveillance etc) led to site-specific interpretations of 'medium' and 'minimum' security. As the divestment of provincial psychiatric hospital programs to public hospitals occurred, this was exacerbated by decentralized ownership and direction, resulting in arguably substantial differences in security features between existing medium secure services, and between existing minimum secure ones. Furthermore, not all regional forensic programs offered, or offer now, both medium and minimum secure services. Those offering only medium security provide services to all detained forensic patients, including the full range of community reintegration services, from within facilities bearing the medium secure label.

Those offering only minimum security provide services to all detained forensic patients, including those restricted to the secure service, from within minimum security.

It is important to note that the physical design features of a particular ward or unit constitute only one group of factors contributing to security (often referred to as physical or static security). Hospitals with only one secure unit have historically provided for a range of security needs by varying other factors (referred to as dynamic security) such as staffing ratios. Differences in physical security between some medium secure services, and between some medium secure services and some minimum secure services, are arguably negligible. The interplay between static and dynamic security has generally been well understood by persons familiar with the forensic mental health system, including members of the ORB. Evidence about security issues is a routine part of all disposition hearings held by the Board.

Factors to be Considered:

In order to appropriately define the range of services provided to forensic patients it is necessary to have a standard lexicon for security designations in Ontario. It is important to conceptualize security in a meaningful way that can be clearly understood, despite the existing lack of standardization of physical security features in the various facilities.

Security might be conceptualized as addressing two responsibilities borne by forensic programs;

1) the responsibility **to prevent escape** and
2) the responsibility to **ensure the safety of patients, staff and others** inside the facility.

Supervision can also be conceptualized as addressing two areas of responsibility;

1) the augmentation of security inside the facility and
2) the management of risk to public safety at the community interface and in the community itself.

Absconding and/or re-offending committed by forensic patients in the community have most often been associated with supervision, not security.

Looking at the two component elements of *Security:*

1. *How much security is required **to prevent the escape** of a forensic patient from secure custody?*

   Forensic programs in Ontario, notwithstanding the absence of codified security designations, all have a very good track-record of preventing escape. Most forensic patients are manageable in regional forensic programs, although some very high risk individuals with histories of weapons making and/or escape attempts do require significantly higher levels of static or physical security. In addition, the offence history of some individuals is so serious that only significantly higher levels of static or physical security can ameliorate the threat they pose to the safety of the public. Because there are relatively few such individuals, and because such high security facilities are extremely expensive to build and operate, this service has been centralized in Ontario. The Oak Ridge facility currently provides this service for the province.

2. *How much security is required to **provide for the safety of patients, staff and others inside the facility**?*

   Almost any in-patient psychiatric service, including all current medium and minimum secure forensic services, is capable of managing highly disturbed behaviour for short periods of time. Most such services have seclusion rooms. Most forensic patients admitted pursuant to assessment orders from the courts require physical facilities similar to those used to provide acute inpatient psychiatric care. Most other forensic mental health patients make progress along their rehabilitation path such that protracted institutional violence is rare. They can therefore be safely managed in regional forensic programs.

   However, there are a few forensic patients who, for some portion of the time they are engaged with the forensic mental health system, are unable to control themselves and who present with protracted explosive violence, or predatory or sexual violence, that can overwhelm the physical and human resources of most in-patient units. These individuals require specialized physical and clinical resources. Because there are relatively few such individuals at any given time, and because the physical and clinical resources to serve them are specialized and costly, this service has been centralized in Ontario. The Oak Ridge facility currently provides this service for the province.

   If there is adequate static security at a facility to prevent escape and to keep people inside the facility safe, then additional security directed to the same purpose is superfluous. If the essence of an effective 'secure forensic service' can be extracted from the confusion of current medium and minimum secure units, all of which are effective at preventing escape, then it is questionable whether it is appropriate to designate both medium and minimum levels of security within the system. Indeed, some regional forensic programs currently functioning in Ontario <u>do not</u> have both levels of security (e.g. Kingston, Penetanguishene regional program) yet manage to provide the full range of services required of them, including both secure custody and community reintegration. One new facility in Ontario (Thunder Bay) has, after careful deliberation, gone so far as to apply <u>no designation at all,</u> yet they still provide the range of services required.

Proposal:

We define two security designations for regional forensic services below. The definitions are simple, and based on security principles, rather than physical attributes of a building structure. We believe this is a workable, rational, and consistent approach to the security designation of regional forensic facilities in Ontario.

1. Secure Forensic Service

This is defined as a service in which all access to non-secure areas is controlled by staff members who, themselves, are not accessible to patients. That is, the means of egress – keys or automatic systems – are entirely outside the 'hard' physical secure envelope and cannot be accessed by patients who are inside it. Staff members who are in proximity to patients do not carry keys that could get them through the secure perimeter. That, coupled with a physical environment that is otherwise secure, precludes escape, unless staff consciously allow the patient outside the hard envelope. Whenever a patient is outside the hard envelope, supervision is the critical factor in the prevention of

absconding or escape. Secure Forensic Services should include appropriate rehabilitation and recreational services within the secure perimeter.

Secure Forensic Services would include the Oak Ridge facility and most existing regional forensic medium and minimum secure services.

2. General Forensic Service

This is defined as all forensic inpatient services that do not meet the criteria for designation as a Secure Forensic Service.

A regional forensic program might offer forensic services at both the Secure Forensic level (perhaps comprised of several wards), and the General Forensic level, that might include locked forensic wards, wards that are open for specified hours of the day (or to which patients have manual or electronic keys), fully open forensic wards, or dedicated transitional housing services on hospital grounds.

Implications:

The terms “maximum”, “medium” and “minimum” security currently in use throughout the forensic mental health system in Ontario are set out in the Forensic Services Manual developed by the MOHLTC in 1992 to respond to the enactment of the Mental Disorder Part of the Criminal Code. The Manual describes the levels of security in terms of the forensic mental health services that were available at the time at individual hospitals, rather than specific security standards that had to be met. The descriptions in the Manual were based on information from the hospitals designated under the Code.

It is still the case that no specific standards are set by the ORB or MOHLTC that would permit the meaningful selection of one level of security in preference to another. The descriptions of static and dynamic security features at each hospital are based on the hospital’s information and evidence at individual hearings, so that it is not always clear whether the terms “medium” or “minimum” have the same meaning from one hospital to the next. In the current situation, some facilities that are described as “medium secure” have little in common other than the fact that patients rarely escape from them. On the other hand, it is all but impossible to distinguish between some programs that are described as “medium” secure and those described as “minimum” secure.

Recent case law has determined that the four criteria in s.672.54 of the Code apply at every stage of the disposition process and must be considered when determining the appropriate disposition to be made and any conditions attached to that disposition[5]. In making a disposition, the ORB cannot view the least onerous and least restrictive requirement in isolation and the question for the ORB is not limited to a consideration of the lowest level of security at which an accused can be “managed”. Rather, the ORB must consider whether the level of security (and other relevant factors) is appropriate having regard to all of the criteria listed in s.672.54[6]. As a result, the Board is seeking a better understanding and clearer definitions of the various security descriptions currently in use, as well as more information about the services available through the forensic mental health system. This is an appropriate juncture for the Forensic Directors to re-conceptualize physical security and re-label programs in a clear, logical, and consistent fashion so that Ontario’s forensic mental health services can best meet their mandate to protect the public and provide for the needs of their patients.

By clarifying the basis for the designation of the forensic mental health system, into Secure Forensic Services and General Forensic Services, MOHLTC and partner

designated facilities will be able to create simplified service agreements with embedded standards, thereby ensuring the provision of all necessary services at each facility. Hospitals will have greater latitude and discretion to best meet the clinical needs of forensic patients within the designated level of security, as dictated by the ORB disposition. The ORB will be able to direct patients to forensic programs where their security needs are properly met, recognizing that security designation is but one of several relevant domains to consider in creating the disposition which is least onerous and least restrictive (*Magee*, 2006). All parties will then be able to focus on other service issues relevant to creation of the appropriate disposition.

No hospital will incur major capital costs as a result of this re-articulation of security descriptions. All existing forensic inpatient services will fall into one of the two defined classifications.

End Notes

[1] Section 23 indicates that a judge shall not make an order under s. 21 or 22 until he or she ascertains from the senior physician of a psychiatric facility that the services of the facility are available to the person to be named in the order. Forensic examinations or admissions under Section 22 or 23 of the Mental Health Act are provided with the prior approval of the senior physician of the proposed psychiatric facility (s.23). The Head or Chief of the forensic program usually assumes this role.

[2] Form 8: In current practice Form 8 is used for many purposes that are not specifically authorized by the Mental Health Act. Form 8 Orders currently are made for pre-sentence purposes, risk assessment, diversion from the criminal justice system and treatment. On occasion, a Form 8 order may have the effect of avoiding other kinds of admission under the Mental Health Act or Part XX.1 of the Criminal Code and may, therefore, assist with the management of the forensic mental health system.

In exceptional circumstances, a Form 8 provides a means to divert minor offenders away from the criminal justice system consistent with existing Crown diversion policies by admitting the person. This decision is at the discretion of person in charge and requires that the accused be seriously mentally ill to the extent that would normally qualify for admission to a psychiatric facility.

[3] A very small number of civilly committed persons are extremely dangerous high risk/violent patients including people with predatory sexual behaviour, fire setting behaviour or extreme violence against others and may be detained involuntarily for very lengthy periods of time.

[4] Hospitals designated as adult forensic service providers by the Minister of Health

Centre for Addiction and Mental Health (Toronto)
Mental Health Centre Penetanguishene (Regional and Provincial Programs)
North East Mental Health Centre (North Bay)
Providence Care (Kingston)
Royal Ottawa Health Care Group (Ottawa and Brockville Programs)
St. Joseph's Regional Mental Health Care (St. Thomas)
St. Joseph's Healthcare Hamilton's Centre for Mountain Health Services, (Hamilton)
Thunder Bay Regional Health Sciences Centre
Whitby Mental Health Centre

[5] Penetanguishene Mental Health Centre v. Ontario (Attorney General), [2004] 1S.C.R. 498

[6] Penetanguishene Mental Health Centre v. Magee, [2006] O.J. No.1926; Joan Barrett and Riun Shandler, *Mental Disorder in Canadian Law*. Toronto: Thomas Canada Limited, 2006