

Section 34 Assessments under the YCJA

October 30, 2013

Why are mental health assessments important
in justice-involved youth?

Why is assessing and treating MH needs important in juvenile justice settings?

- ☞ Ample evidence indicating the long-term negative outcomes if mental health issues are left unaddressed
- ☞ Mental health needs may be directly related to risk to reoffend and rehabilitation (criminogenic needs)
 - ☞ Examples of mental health issues directly related to risk for continued problems: educational difficulties, substance use disorders, attention issues and impulsivity (ADHD), pedophilia
- ☞ Other mental health needs, although not directly related to recidivism can have an impact on a youth's responsiveness to treatment (responsivity)
 - ☞ E.g., cognitive functioning, depression, or psychosis

Understanding the Scope of the Problem

Prevalence rates of mental health issues in Justice-involved Youth

Compared to youth in the general population, youth in custody have much higher rates of all sorts of mental health issues (conservative estimates)

- ☞ Conduct Disorder – 4-5x higher
- ☞ ADHD – 4-6x higher
- ☞ Substance Abuse -- 10-15x higher
- ☞ Depression – 4-6 x higher
- ☞ PTSD – about 25x higher
- ☞ Schizophrenia -- 6x higher
- ☞ FASD diagnosis – 12x higher
- ☞ IQ<70 (below 2nd percentile) – 4-10x higher
- ☞ IQ =70-79 (Borderline) – 15-20 x higher
- ☞ Learning Disabilities -- 5-6x higher
 - ☞ Communications disorder noted as high as 60%

YCJA – What is a Section 34 Assessment and
Why order one?

Section 34: Medical or psychological assessment

- ☞ Can be ordered with the young person's consent but...
- ☞ Consent of the young person is not required "if the court believes a medical, psychological or psychiatric report in respect of the young person is necessary", and:
 - ☞ The court has reasonable grounds to believe that the young person may be suffering from a physical or mental illness or disorder, a psychological disorder, an emotional disturbance, a learning disability or a mental disability; or
 - ☞ The young person's history indicates a pattern of repeated findings of guilt under this Act; or
 - ☞ The young person is alleged to have committed a serious violent offence

Section 34: Purpose of assessment

- ☞ **Release from Custody under Community Supervision** (*Considering an Application under Sect 33*)
Assessment regarding the risk for serious criminal violent behaviour and whether the young person can be maintained in the care of a responsible person outside a detention centre. Detention may not be used as a substitute for appropriate mental health services or social or protection services
- ☞ **Hearing - Adult Sentencing** (*Application under Sect 71*)
This assessment requires a full evaluation of the maturity, character, background and psychological status of the young person, including a risk evaluation for future violent behaviour

Section 34: Purpose of assessment

- **Making or Reviewing a Youth's Sentence**
Assessment involves a full evaluation of the individual's background, character, maturity and social functioning, in addition to psychiatric and psychological status
- **Continuation of Custody** (*Evaluation for Sect 104 (1)*)
Evaluation regarding *risk for committing a serious violent offence* within the time period defined by the youth sentence and an evaluation as to whether community treatment and supervision would substantially reduce the risk posed by a young person

Section 34: Purpose of assessment

- **Conditional Supervision** (*Setting Conditions under Section 105(1) or Making an Order under Section 109(2)*)
Assessment requires a full psychological and social assessment to assess *risk of future criminal and/or violent behaviour*, whether treatment or social interventions may reduce that risk and recommendations for appropriate conditions of conditional release
- **Information About a Young Person** (*Disclosure under Subsection 127 (1)*)
Assessment involves a *risk assessment to determine whether the young person poses a risk of serious harm to other persons*, such that disclosure of information to specified members of the public may be required

Section 34 assessments

- ☞ Common features for each purpose:
 - ☞ **Release from Custody under Community Supervision**
 - ☞ **Hearing - Adult Sentencing**
 - ☞ **Making or Reviewing a Youth's Sentence**
 - ☞ Continuation of Custody
 - ☞ Conditional Supervision
 - ☞ Information About a Young Person

- ☞ Almost all explicit on need for a risk assessment for violence, which would include a thorough assessment of psycho-social functioning and history

- ☞ Most common assessments also make reference specifically to mental health functioning