REPORT ON PROCEEDINGS OF A DISCUSSION FORUM HOSTED BY THE CHAMPLAIN DISTRICT HUMAN SERVICES AND JUSTICE COORDINATING COMMITTEE

'ACCESS TO TREATMENT AND THE CRIMINALIZATION OF PERSONS WITH MENTAL ILLNESS AND/OR ADDICTIONS'

22 March 20111

INTRODUCTION

In early spring 2010 some families in the Champlain Region approached the Champlain Region Human Services and Justice Coordinating Committee (HSJCC) and expressed an interest in sharing their concerns with others in the community regarding access to treatment for their loved ones coping with mental illness and/or addictions who are also at risk of coming in contact with law.

Towards this end, on 01 November, 2010 the HSJCC hosted a discussion forum on "Access to Treatment and the Criminalization of Persons with Mental Illness and Addictions". People with mental illness, family members, psychiatrists from community and clinical programs, social workers, lawyers, correctional service personnel and other mental health professionals came together to discuss the following:

- The treatment of persons with mental illness and/or addictions on initial contact with the law ; and

- The treatment of persons with mental illness and/or addictions who have been found criminally responsible and are being followed by probation, parole, and supported by organizations such as the John Howard Society and the Elizabeth Fry Society.

THE CONTEXT

During the discussions several comments were made that provided for some measure of the level of concern among the participants at the forum regarding access to treatment and the criminalization of persons with mental illness and/or addiction as follows:

- Far too many family members have their first contact with the mental health care system through the justice system – what can be done to move away from encouraging family members to have their loved ones arrested simply to receive treatment

- Diversion of individuals to treatment, safe beds and case management is only possible if the right level of resources have been allocated to ensure such services are available when needed - both in response to a crisis intervention and in providing for better assessment, discharge planning and follow-up upon release from an institution including persons on their release from detention

- 'Prisons as new asylums' - prison is a blunt instrument for managing complex social problems. Warehousing mentally ill persons in conditions and environments that are poorly suited to meet their needs promotes neither public safety or rehabilitation.

SUMMARY OF CONCERNS

ACCESS TO TREATMENT ON INITIAL CONTACT WITH THE LAW

o ACCESS

- Obtaining access to crisis beds is difficult and given the recent loss of 12 beds in the Ottawa area there are concerns that the situation will not improve in the short term. In addition, some families are concerned that when their loved ones are admitted to hospital the typical 14 day stay is not long enough.

- There are cracks in the system for high risk patients and in some cases there is no treatement for the abused

- Follow-up treatment is hard to find with long waiting lists for all services including:

    - Access to housing so important to avoiding relapse;
    - Psychiatrists in private practice and to treatment centres – in fact, if criteria not met individuals coping with mental illness and/or addictions are disqualified
    - Organizations such as the John Howard and the Elizabeth Fry Society have long waiting lists (Elizabeth Fry has a waiting lis of 50 individual a month)

- More needs to be done to address harm reduction and to decrease dependance problems and more specifically to avoid the practice of returning people that have successfully completed a detox program into the same environment.

- People who have mental illness should receive mental health services when they enter the justice system instead of being segregated in prisons. However, regardless of efforts made to ensure access to treatment some individuals may choose to go to jail because they do not have insight into illness.

  The situation becomes more problematic given that defence lawyers are client driven and must proceed in accordance with direction provided by the client. In other instances when police bring individuals to hospital it is difficult to determine what the individual is coping with including the possibility of substance abuse. Of those individuals brought to emergency by the police typically many will not be admitted due to the provisions of the mental health act or the hospital has no beds available.

- **STIGMA**

- 'The right to be well' - more needs to be done to break down barriers to effectively treating individuals and to avoid the discrimination experienced by people (including not criminally responsible clients) coping with mental illness and addictions. It is not just about providing a diagnosis and allowing individuals to simply get lost in the system or become part of the what has been described as a 'revolving door' as individuals move in and out of hospitals and treatment centres.

- More resources are required including changes to curricular efforts in reaching out to teachers and students in schools in an attempt to eliminate stigma while addressing drug abuse and encouraging early intervention.

- **MENTAL HEALTH SERVICES AND ADDICTION TREATMENT SERVICES**

- Lack of formal agreements and no accountability between agencies who are relunctant to take on clients from other agencies. Service providers respond more willing when the referring agencies guarantees that they will retain responsibility for client.

- Organizational 'silos' are a barrier to providing co-ordinated access to mental health services and community programs. A need for agencies to better understand their respective mandates and roles by spending more time working together in identifying and preventing delays in the delivery of services and community programs.

- Move the dollars to 'front line services' such as early intervention - for example, work with school systems in supporting teachers seeking guidance and direction in ensuring students at risk are provided access to the right services at the right time.

- Appropriate housing is required both transitional and long term in order for most persons coping with mental illness and/or addictions in moving forward with recovery.

- **HUMAN RESOURCES**

- Recruitment of professionals is difficult. Service providers are burned out – front line people need to be empowered and encouraged to to celebrate what works.

- More effort is required to ensure those involved in the delivery of services and community programs including community workers and individuals working in the correctional system are properly trained and better understand mental illness and addictions.

- **PUBLIC POLICY**

- Concerns were expressed regarding federal government initiatives focused on building more prisons - prisons are not treatment centres and if no action is taken 'prison beds' will continue to be our default system for persons with mental illness and/or addictions.

- **MENTAL HEALTH ACT AND OTHER LEGISLATION**

- The Mental Health Act needs to be changed – individuals with serious illness in our society are allowed to live in isolation (never treated) until there are public safety concerns - it is critical that treatment is provided when someone gets sick.

- The Privacy Act impedes the information exchanged between families, family members and mental health professionals and may be having a negative impact on rehabilitation and recovery.

- **FAMILY SUPPORT**

- Families struggle – not a lot of support. If the "system" was more responsive and supportive of the families' criminalization would be less of a concern. Families not knowing what service exist as well as what to do and how to get help often results in a rapidly deteriorating situation. Families need support in better understanding the nature of the illness and how best to cope.

- Need more family to family programs taught in every community in Ontario.

- Service providers restricted by confidentially requirements may not be positioned to engage families as full partners in the care and recovery of our loved ones.

- Local mental health agencies need to recognize the toll that caring for a person with a serious mental illness takes on the family caregivers. Family members themselves suffer from high rates of emotional and anxieties disorders and are likely to need mental health services themselves.

- Caregivers need respite. Programs for people with serious mental illnesses such as social recreation are beneficial to the person who is ill and to the family member who gets a brief respite.

- Family Advocate Office (provincial access) - to provide helpful information and advice related to systems navigation of the mental health and the criminal justice systems; rights advice for caregivers; information on laws that govern mental health care; and to provide support and education to family members.

TREATMENT OF PERSONS WITH MENTAL ILLNESS AND ADDICTIONS WHO HAVE BEEN FOUND CRIMINALLY RESPONSIBLE AND ARE BEING FOLLOWED BY PROBATION, PAROLE, AND SUPPORTED BY THE JOHN HOWARD SOCIETY AND THE ELIZABETH FRY SOCIETY IN THE COMMUNITY

- **ACCESS**

- Prevalence and incidence rates for mental illness in corrections is likely under-reported

- Involunatry commitment based on forms 1 and 2 may be contributing to a 'revolving door' as emergency doctors decide not to admit persons with mental illness.

- Need to ensure discharge planning for persons being released from prisons is workable and addresses the challenges associated with non-compliance and a diagnosis that may take years to resolve

- There are issues around police who have diversion powers – for example, 'red zoning' excludes people from areas where they need to go to get help

- Too many people in corrections are remanded unnecessarilty – should be sentenced and tranferred to a place where they can access services

- It is important not to have a break in mental health services. However, because it is difficult to see clients in jail there are are periods when such a break occurs with a significant and negative impact on treatment outcomes.

- Segregation of prisoners with mental illness and/or addictions often leads to anti-social and violent behaviour.

- Incidents of serious self-harm in federal prisons (e.g. head banging, slashing, use of ligatures, self-mutilation) are rising.

- On average, 11-13 federal inmates commit suicide annually. For every completed act of suicide, there are 20 attempts. The rate of suicide in prisons is approximately 7 times higher than the national average.

o MENTAL HEALTH AND ADDICTION TREATMENT SERVICES

- In some cases the approach taken by service agencies does not readily result in adequate discharge planning for individuals on release from prison including efforts dedicated to ensuring follow-up from the dispensing of medication to housing – all of which benefit the person with mental illness and/or addictions

- The provision of the necessary treatment in federal penitentaries becomes more of issue because federal penitentiaries are exempt from the Canada Health Care Act – it becomes a question of what priorities can be funded including the tradeoff between the need for security and the needs of those with mental illnesses and/or addictions.

- All government agencies need to learn more about each other and provide for accountaiblity between services – currently service providers define their roles narrowly. Service providers involved with providing services to the same client often do not meet face to face with the client as a team. As a result, it is difficult to share information and to adopt a team and client centred approach that would address existing service gaps.

- It may be necessary to shift the focus of community programs and services from custodial care to a focus on release dates and discharge planning. Lessons learned from other government agencies such as provinical corrections 'accompanied support program' may assist in developing best practices with respect to ensuring a well managed tranistion to the community - in short, start discharge planning the day that the client is admitted.

- A commitment to ensuring 'Every Door is the Right Door' is not always evident given that current criteria for services means only the very sick are provided access to treatment. Gaps in services still exist for community mental health programs that target those offenders with severe mental illness and a history of substance abuse– individuals with complex needs require specialized resources, transitional housing and support on release from prison.

- Federal system is facing serious capacity, accessibility, quality of care and service delivery challenges.

o HUMAN RESOURCES

- More training is required for police and first line staff (i.e. correctional services) when asked to manage situations involving individuals with mental illness.

- Managing mentally disordered offenders in prison creates professional and operational dilemmas – security vs. treatment, inmate vs. patient

- **MENTAL HEALTH ACT AND OTHER LEGISLATION**

- Confidientiality is a challenge for families and professionals and more specifically, laws around capacity for substitute decisionmaker.

- The Mental Health Act tends to protect the rights of people to be sick rather than their right to be well. We need to recognize that serious mental illness is and can be deadly serious with devastating consequences when a person is not treated.

RECOMMENDATIONS

Therefore, it is recommended:

- **ACCESS**

1. On initial contact with the law provide a person with mental illness and/or addictions coordinated access to early diagnosis, treatment, resources and services offered by a central access point that is equipped to deal with the seriously mentally ill including a focus on youth in transition (16 to 21 years old) along with a range of prevention and diversion measures.

   Efforts to provide for such a central access point should learn from the success of existing treatment models such as the first episode psychosis program - a community based model that takes an integrated approach to recovery including, recreational therapy, occupational therapy, group recovery programs and so on.

2. The criminal justice system of Ontario formally accept the responsibility to establish and resource the necessary treatment capacity and support systems for persons with mental illness and addictions who are in detention and would benefit from access to treatment.

- **STIGMA**

3. Identify and address issues specific to the Champlain district that bring distressed and vulnerable persons into contact with the criminal justice system.

4. Through continuing education, on-going support and by providing the right tools enhance the capacity of all concerned to respond effectively and with sensitivity to persons with mental health and/or addictions

o MENTAL HEALTH SERVICES AND ADDICTION TREATMENT SERVICES

- **Specialized Facilities and Housing**

5. Establish a facility to provide specialized and intensive care for persons that would benefit from the support of others (i.e. families, friends, and those in community sharing similar experiences) in the context of a structured and coordinated delivery of recovery and community based programs.

   Such as transitional housing (for stays of not more than one or two weeks) where services are activated and supports are put in place for a coordinated and well managed transition into community.

6. Develop a range of affordable supportive long term accommodations to address the housing needs of seriously mentally ill individuals who are in conflict with the law, individuals who are discharged from detention, and individuals who are on probation and /or court diversion.

   Efforts to provide for such housing should learn from Housing First Models and projects such as the Foundation Pilot Project

- **Organzitional Mandates, Structure, Boundaries, Attitudes and Behaviours**

7. Organizational mandates, structure and boundaries that influence the attitudes and behaviours of individuals working in the justice system and the mental health community continue to be sources of potential barriers to ensuring effective and timely access to treatment and community supports.

   Given the above and the complexity involved in encouraging meaningful collaboration among at least four ministries - Ministry of Health and Long-Term Care, Ministry of Community, Family and Children's Services, Ministry of Public Safety and Security and the Ministry of the Attorney General – a first step in 'getting things right' is the development of 'guiding principles' that begin to define mandates as well as roles and responsibilities in terms of a commitment by all concerned to:

   - Effective and timely access to treatment both on initial contact with the law and for those in prisons or on parole
   - Enhancing the continuity of care and public safety while reducing victimization
   - Responding effectively and with sensitivity to persons with mental health and/or addictions
   - Providing for individuals with complex needs the require specialized resources, transitional housing and support on release from prison.

- Addressing gaps in services that exist for community mental health programs that target those offenders with severe mental illness and a history of substance abuse
- Shifting the focus of community programs and services from custodial care to a focus on release dates and discharge planning
- Adopting a team and client centred approach that would address existing service gaps.
- Adequate discharge planning for individuals on release from prison including efforts dedicated to ensuring follow-up from the dispensing of medication to housing
- Recognizing the toll that caring for a person with a serious mental illness takes on the family caregivers.
- Developing a better understanding of departmental mandates and roles by spending more time working together in identifying and preventing delays in the delivery of services and community programs.

- **Organization Relationships – Public and Private Sectors**

8. Involve private sector organizations as well as family members and their loved ones in the development of the 'guiding principles' referred to above.

9. Review current practice, procedure and processes in place for working relationships between public sector and private sector organizations such as the John Howard Society and the Elizabeth Fry Society with the view of addressing existing gaps in services and community supports.

HUMAN RESOURCES

- **Organizational Learning and Development**

10. Lessons learned – learn from shared experiences and do so by documenting lessons learned through case studies that take a 'before and after approach'.

11. Develop educational, training and program guidelines based on an interdepartmental and cross functional approach that allows for shared learning while advancing the implementation of best practices.

PUBLIC POLICY

12. Justice health - formally acknowledge the need for a provincial srategy for mental health and corrections to facilitates the coordination and integration of effort across different jurisdictional, sectoral and disciplinary divides

o MENTAL HEALTH ACT AND OTHER LEGISLATION

Mental Health Act and Health Care Consent Act, 1996

Ontario's mental health legislation places a high value on individual autonomy – a fundamental premise of this law is that all individuals have the right to refuse treatment, as long as they pass a two-pronged capacity test.

13. Continue the debate initiated at the discussion forum regarding the notions of the 'right to refuse treatment or as one family member stated 'the right to be ill' and the 'right to be well'. Although a complicated subject it is likely worthwhile exploring in more detail what is really at stake from different perspectives.

    The Ontario government has created or will create a task force to investigate and propose changes to Ontario's mental health legislation and policy pertaining to involuntary admission and treatment.

14. Consider making a formal submission to the task force including whatever was learned from the debate encouraged above.

o FAMILY SUPPORT

15. More emphasis on taking a family based approach and on youth in transition

16. Develop and implement family to family support programs with a focus in informing families what service exist as well as what to do and how to get assistance as they support their family members on initial contact with the law and/or in detention – support often so critical to avoiding a rapidly deteriorating situation.

17. Establish a Family Advocate Office at the Ottawa court house to provide information and advice to families related to systems navigation of the mental health and the criminal justice systems

18. Provide for the increased availability of respite care to allow family members the time and freedom to maintain their own mental health.