

Criminalization of Mental Illness

The Issue

The long-term trend of deinstitutionalizing people with mental illness – that is, releasing people from psychiatric hospitals to reside and be treated in the community – has been heralded by many as a step forward in the social acceptance and respectful treatment of people with mental illness. With the advent of new, more effective medications and better understanding of the range and types of community supports people with mental illness require, many people with mental illness live successfully in the community.

For a minority of people, usually those with multiple complex needs, deinstitutionalization combined with a lack of comprehensive community support systems has resulted in another type of ‘institutionalization,’ within prisons and jails rather than hospitals.

This is only one of the factors leading to an increase in what is generally known as the ‘criminalization of mental illness,’ i.e., where a criminal, legal response overtakes a medical response to behaviour related to mental illness. This is a distressing trend, with a number of contributing factors.

Ways Mental Illness is Criminalized

Research consistently shows us that a person with mental illness is more likely to be arrested for a minor criminal offence than a non-ill person. The majority of these arrests are for crimes – such as causing a disturbance, mischief, minor theft, failure to appear in court – directly or indirectly related to the mental illness. The majority of these arrests are also initiated by a report from a member of the public, rather than the police.

The range of mentally disordered offenders (i.e. persons with mental illness convicted of an offence) currently in jails and prisons is somewhere between 15 to 40%; highly disproportionate to the occurrence of mental illness in the population at large.

A number of factors contributing to the disproportionate incarceration of persons with mental illness have been identified in research literature:

- **Lack of sufficient community support** including housing, income, and mental health services. Persons with mental illness have a harder time finding employment and housing, and maintaining consistent contact with friends, relatives and treatment providers. It is estimated that 30%–35% of Canada’s homeless population have a mental illness. Many become isolated, homeless, hungry, and poor due to the symptoms of their illness.
- **High rate of substance abuse.** Over 50% of people with mental illness have a co-occurring substance use disorder. Co-occurring disorders (mental illness and substance use disorder) are more difficult to treat than either mental illness or substance abuse alone, and there are insufficient treatment programs for the growing demand.
- **The ‘Forensic’ label.** Treatment is sometimes refused to persons who have committed a criminal offence or have been previously incarcerated. Hospital staff may refuse admission because it is considered a criminal matter, or the person may be considered too dangerous or disruptive for treatment by community resources – even if the offence for which the person was arrested or convicted does not involve violence.

- **Problems with treatment.** Some persons with mental illness try numerous treatments without success. Others refuse treatment because they cannot accept that they have an illness, they dislike medication side-effects, or due to symptoms of the illness itself. Lack of sufficient housing, income, and support also interfere with the ability to maintain treatment.
- **Lack of specialized cross-training for both criminal justice and mental health professionals.** Both systems need to provide information and training to staff on understanding mental health and law enforcement issues, respectively, in order to create successful collaboration.
- **Lack of timely access to mental health assessment and treatment.** Easy access is necessary for early intervention and prevention of deterioration, and also to provide law enforcement, courts, corrections, and communities the ability to access appropriate treatment for individuals in a timely way.

Research also indicates that incarceration is more problematic for a person with mental illness. People with mental illness also are more likely to be victimized by others and may exhibit disruptive behaviour as a symptom of their illness. Disciplinary measures including segregation or solitary confinement can be highly traumatic and cause breakdown or psychosis for a person with mental illness.

For a number of reasons, persons with mental illness are more likely to be arrested, detained, incarcerated, and more likely to be disciplined, rather than treated, while incarcerated. Once arrested and convicted, persons with mental illness are more likely to be arrested and detained again, repeating the cycle.

What Needs to Change

Most people would agree that a person with mental illness should be treated rather than punished. Police must be better trained to recognize symptoms of mental illness and have the capacity to immediately refer to mental health services instead of the criminal justice system. The courts must become more educated on the issues and solutions for persons with mental illness, and the corrections service must develop screening and appropriate treatment and care for offenders with mental illness and ensure appropriate post-release support. Most importantly, people with mental illness must have adequate and appropriate support in the community in terms of housing, income, job skill development and, above all, timely access to assessment and treatment through the mental health system.

Building Capacity: Mental Health and Police Project (BC:MHAPP) is a project of the Canadian Mental Health Association's BC Division, with a goal of improving interactions between police, emergency services, and people with mental illness. This fact sheet is produced as part of the BC:MHAPP Project. These fact sheets have been supported by gaming revenue from the Province of British Columbia. This project is supported by the Vancouver Foundation and the Provincial Health Services Authority. This fact sheet is one in a series of eight:

- Police and Mental Illness: Increased Interactions
- Criminalization of Mental Illness
- Violence and Mental Illness: Unpacking the Myths
- Police and Mental Illness: Models that Work
- Mental Health Crises: Frequently Asked Questions
- Hallucinations and Delusions: How to Respond
- Mental Illness and Substance Use Disorders: Key Issues
- Suicidal Behaviour: How to Respond

For more information on this project, please contact Camia Weaver, Provincial Co-ordinator for BC:MHAPP, CMHA BC Division, at info@cmha-bc.org or 604-688-3234.



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HEALTH ASSOCIATION
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