



## **Court Liaison and the Role of Non-Government Organisations**

The MHCC Winter 2002 Newsletter featured an article about court diversion and the importance of community based services. The article discussed court diversion as an initiative that seeks to better support consumers and carers who come into contact with both the mental health and criminal justice systems.

Corrections Health Service is the major provider of court liaison services in NSW. The following article outlines the history and future directions of the Corrections Health Statewide court liaison services in NSW, including the role of NGOs in promoting effective court diversion schemes.

### **Scope of Mental Health Problems & Disorders in NSW Correctional Centres**

Inmates in correctional centres, periodic detention centres, transitional centres and police/court cell complexes make up the health care community served by Corrections Health Service.

In 2001/02, some 18,000 men and women were received into NSW correctional centres. At any given time there are presently more than 8,000 people in custody. In general, the health status on reception of inmates is poor. They suffer disadvantage on a whole range of health problems, including mental illness, drug abuse and general neglect of their health.

For example, about 85% of inmates received into NSW correctional centres and 70% of sentenced inmates have a psychotic, mood, anxiety, substance use or personality disorder or combinations of these disorders in the past year (Corrections Health Service, 2002).

The level of mental health problems and disorders is 3 to 4 times higher among inmates than that of the general Australian population. According to the 2002 National Survey of Mental Health and Wellbeing, 1 in 5 Australians are found to be at lifetime risk of being affected by a mental disorder.

Many mentally disordered defendants or offenders in custody are charged with summary offences or relatively minor crimes. A smaller proportion has a history of serious or repetitive indictable offences. Looking at the total prison population with mental disorder, 60% of female and 44% of male non-violent offenders in NSW correctional centres (including fraud, property, driving and public order crimes) have been identified with a mental disorder, including psychosis, anxiety and affective disorders (Corrections Health Service, 2002).

### **NSW Statewide Community & Court Liaison Service**

One way towards solving this issue involves Court liaison/diversion services have developed in a climate of high prevalence rates of mental illness in prisons. The NSW Government has authorised and funded up to \$1.6 million recurrent each year on a program of grants for Corrections Health Service to develop a Statewide program that diverts people with mental health problems and disorders from the criminal justice system to mainstream community-

based mental health services.

Contrary to popular belief, court diversion does not necessarily equate with discontinuation of criminal prosecution but allows for the two systems to co-exist in a collaborative manner. Court diversion to mental health services allows the legal system to get on with the job of processing these individuals through the courts. It equally allows mentally ill defendants to timely access mental health services.

The service currently operates in seven metropolitan and rural courts in NSW, shortly to include a further seven regional and rural courts. Clinical Nurse Consultants and forensic psychiatrists assist magistrates, solicitors, police prosecutors and other court staff with assessment and diversion of people with mental health problems and disorders by referring clients to appropriate mental health services, out of custody and towards community and hospital settings. Where this is not possible, referrals are made to mental health services within the correctional system.

Local Area Mental Health Services also operate court liaison services in Newcastle, Wollongong and Port Macquarie/Kempsey.

The Statewide Court Liaison Service also provides linkages between prisons and courts for mentally ill defendants offenders. Mentally ill offenders in prison are linked back to local court liaison nurses to foster successful re-integration back into local Area Mental Health Services.

### **How Does Court Diversion Work?**

Court diversion is available to those who are charged with relatively minor (summary) offences, where the process of prosecution has begun (i.e. before trial), and who appear at the local Magistrate's Courts. Although diversion can occur at any stage of a court process, the vast majority of cases are dealt with before conviction.

Court diversion involves three different stages:

1. The identification or screening of detainees with suspected severe mental health problems and disorders, usually by non-health staff such as police, solicitors and corrective services officers.
2. Psychiatric assessment and triage by a mental health professional, either mental health nurses or psychiatrists.
3. Diversion ordered by the magistrate to mental health services, which involves negotiation with the courts and the integration of the individual into the care of appropriate mental health services which can deliver an alternative to prisons. Where this is not possible, the court liaison officer will ensure continuity of care through the correctional system.

The process of diversion involves relevant sections of the NSW Mental Health (Criminal Procedures) Act 1990. A request for psychiatric assessment is made under sections 32 and 33 of the Act. The court cannot mandate psychiatric treatment under the Act, but orders the individual to be either detained in a hospital or placed under conditions to attend a hospital/community mental health centre or care of responsible persons.

All psychiatric treatment decisions are mandated under the NSW Mental Health Act 1990. The primary advantage of the Clinical Nurse Consultant in the courts is to provide psychiatric assessment and triage, and to ensure better access to mainstream mental health treatment and care. However, Area Health Services remain the gatekeepers for provision of mental

health services for those diverted.

### **The Support of Non-Government Organisations**

The profile of the target population is highly complex and presents a significant challenge for the courts and for those working for the Statewide Court Liaison Service. In particular, alcohol and other drug addiction, homelessness, and income support are areas where non-government organisations play a vital role in providing assistance, to ensure and enhance the prospects of court diversion.

The Court Liaison Service strives to meet the needs of these consumers through referral to Area Mental Health Services or mental health services in correctional centres. These consumers have the same needs as other mentally ill people for general health care, stable housing, home support, recreation, employment, and education.

The Magistrates will frequently take a pragmatic view in determining the feasibility of diversion, which includes the need for clients of the Court Liaison Service to access appropriate welfare services. There is a growing need to formally entrench partnership arrangements between Court Liaison Services and non-government organisations.

### **Benefits of Court Diversion**

Court diversion aims to assist consumers and carers by providing:

- Access to early mental health assessment and intervention
- Facilitation of mental health treatment and support needs
- Reduction of offending behaviour

### **What We Have Achieved to Date**

The Statewide NSW Community & Court Liaison Service commenced in late March 2002. Service activity and outcomes data have since been collected on a daily basis, including court throughput, referral rates, client demographic details, criminal charges, and outcomes from mental health assessments in terms of diversion.

Findings to date suggest that almost 800 people facing charges were screened during the first 7 months of the project. A total of 64% of the screened population were identified with a serious mental health problem or disorder. This is equivalent to a referral rate of 11% all individuals in custody. Such figures are consistent with service activity data and findings from evaluation of court diversion schemes elsewhere in Australia and overseas.

Approximately 50% of those diverted were successfully transferred into care of mainstream community and inpatient mental health services. For every one person diverted to inpatient mental health facilities, three were diverted to community mental health facilities. The remainder 50% were linked up with mental health services in correctional centres. In addition, 30% of all mentally ill persons entering the Silverwater remand complex were already identified by the court liaison service working from the 7 existing courts. This liaison between courts, Area Mental Health Services and prisons will foster the principle of continuity of care of these consumers entering and leaving the correctional centres. The role of NGOs is to collaborate with the integration and continuity of service arrangements for this doubly stigmatised mentally ill population.

While these figures are very promising at this early stage in the project, the need for formal research has been identified. A comprehensive data collection tool and database are currently under development, and will capture service performance on a range of health and judiciary indicators, including recidivism, need for hospitalisation and quality of life.

**How to Obtain Further Information**

For further information about the NSW Statewide Community & Court Liaison Service, please contact head office at:

Long Bay Correctional Centre

PO Box 150

MATRAVILLE 2036

Tel: 9289 2007 Fax: 9289 2115

Email: [court\\_liaison\\_service@chs.health.nsw.gov.au](mailto:court_liaison_service@chs.health.nsw.gov.au)

This article was prepared by:

Professor David M Greenberg, Clinical Director

Ben Nielsen, operations Manager

*NSW Statewide Community & Court Liaison Service*

*Corrections Health Service*

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