

Overview of Background Reports

Presentation to the 2021 P-HSJCC Specialized Courts Forum

Presented by: Candace Vena, Project Manager, HSJCC Secretariat cvena@ontario.cmha.ca

Agenda

- Overview of P-HSJCC's work on Mental Health Courts
- Overview of the Racialized Populations and Mental Health and Addictions Community of Interest work on Court Diversion
- Overview of CMHA Ontario's work on Drug Treatment Courts
- Q&A



A group of people are seated around a long wooden table in a meeting room. The scene is brightly lit, likely by natural light from a window. In the foreground, a person's hands are visible, holding a pen over a notebook. Other people are visible in the background, some with their hands clasped or resting on the table. A teal rectangular overlay is positioned in the lower half of the image, containing the title text in white.

Provincial HSJCC Mental Health Court Report

P-HSJCC Mental Health Court Project

Background:

- Over the past decade, there has been increased attention from many government bodies on the importance of addressing mental health issues within the courts system.
- In January 2014, the Provincial HSJCC first initiated a project to examine the presence of designated mental health courts in Ontario.
- There was a lack of cohesive information on the existence and operation of mental health courts in Ontario, due primarily to the fact that they are ad hoc courts that do not have a standardized process of operation across the province.



P-HSJCC Mental Health Court Project

First phase objectives:

- To raise awareness and increase knowledge of specialized courts and mental health court support services available in Ontario.
- To build relationships and links between existing specialized courts and mental health court support services, as well as between legal aid clinics and community mental health and addictions service providers across the province.
- To improve access to justice for clients with mental health and addictions issues by strengthening multidisciplinary teams and promoting the concept of 'therapeutic jurisprudence'.

Second phase objectives:

- To provide a comprehensive snapshot of mental health courts currently operating in Ontario.
- To ascertain what similarities and differences may exist in their operation.
- To establish a network among mental health court professionals to facilitate communication and share best practices, with a view to improving the quality of service provided to the client population.



P-HSJCC Mental Health Court Project

Methodology:

- Project advisory committee developed key informant interview questionnaire to generate descriptive elements of Ontario's mental health courts

Questionnaires included the following:

1. **Identifying information** – court name, location, year of establishment, etc.
 2. **General Information** – how often does the court sit and for how long, what types of proceedings are included, etc.
 3. **The Eligibility Process** – referral process, how eligibility is determined, etc.
 4. **The Pre-Court Process** – pre-court meetings; who attends, purpose, frequency, etc.
 5. **Court Resources** – designated staff, available technology, specific funding, etc.
 6. **Diversion** – how are diversion plans developed and by whom, rewards and sanctions used, etc.
- 22 courts in Ontario were identified to participate in the interviews

P-HSJCC Mental Health Court Project

Key Features/Characteristics of MH Court:

- All designated mental health courts have a date of initiation, when one or more stakeholders mobilized to create a separate space for addressing the needs of people with mental health issues in the criminal justice system.
- All designated mental health courts have designated days of operation, with regular frequency. This is one of the key defining features of designated mental health courts in Ontario.
- Most designated mental health courts have some form of eligibility criteria to determine which clients will be able to participate in the court's processes and programs.
- Designated legal staff (Crown, Judge, Duty Counsel) are often available in every mental health court ('designated' meaning trained or specifically assigned to that court), while designated Mental Health Court Support Staff are always available in every mental health court.
- They have a common purpose (care for the individual and their health, easing the administrative burden on justice system, reducing recidivism by addressing mental health issues and connecting the client to appropriate community services)
- Mental health diversion is one of the shared elements of designated mental health courts.

P-HSJCC Mental Health Court Project

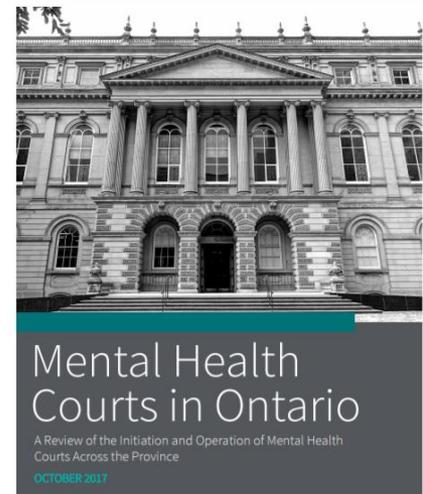
Common Challenges of MH Courts

- A lack of dedicated funding was the main challenge faced by all of the mental health courts surveyed.
- The lack of availability of a Psychiatrist was also listed as a common challenge, which relates to a lack of dedicated resources.

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Noted Strengths of Mental Health Courts in Ontario:

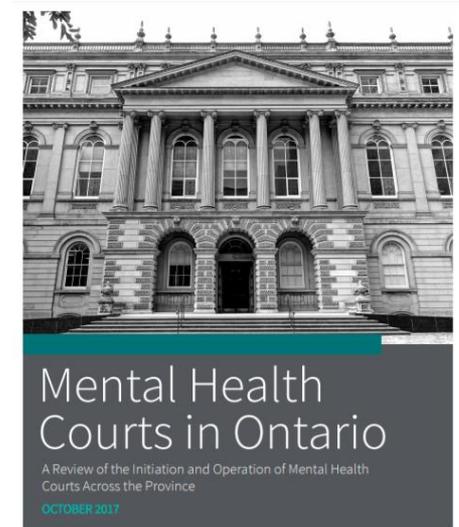
- Consistency of having a designated Crown, Duty Counsel and Judge
- Flexibility in approach within each court
- Collaboration among stakeholders
- Individualized and specialized mental health services for clients
- Allows for more creativity in therapeutic approaches and results in better outcomes
- Reduces criminalization of clients and aims to reduce recidivism
- Addition of Aboriginal court worker
- Other stakeholders that will visit clients in custody
- Consistency maintained when all referrals are coming through one agency, such as CMHA



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Noted Gaps and Barriers:

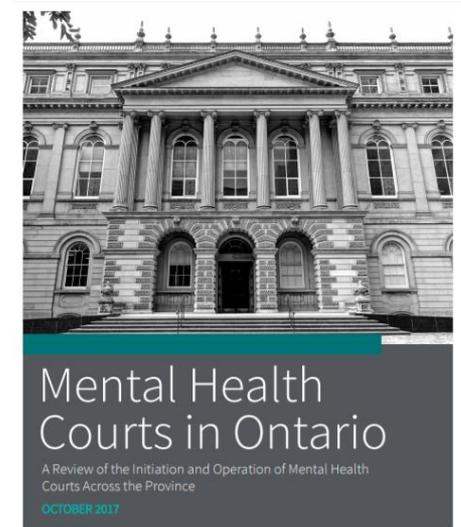
- Lack of resource consistency across the Local Health Integration Networks (LHIN) and regions
- Inconsistency in application of Crown Policy Manual and inflexible guidelines with respect to screening and diversion
- Lack of consistency in how mental health courts apply the law and ministry guidelines – no unified training for stakeholders or established best practices
- Lack of stable housing/shelter options for clients who require it
- Wait lists for community-based mental health and other social services are long and impractical given court timelines
- Lack of psychiatric services – impacts when a diagnosis is required for acceptance into the courts
- Lack of pre-charge diversion
- Legal professionals may use Mental Health Court inappropriately



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Identified Next Steps:

- More training and education for all stakeholders (interest in starting Community of Practice)
- Better integration between community-based services and Mental Health Courts
- Expanding care and support for seniors (i.e. for people with dementia, Alzheimer's)
- Adopt best practice guidelines that are flexible depending on community needs
- Greater access to psychiatric assessment and treatment services, including follow-up care after discharge
- Increased funding for pre-charge diversion, including police education – to reduce the need for Mental Health Courts
- Using restorative justice methods more frequently – include the client voice, for example in surveying past participants





Racialized Populations and Mental Health Court Diversion

Racialized Populations and Mental Health Court Diversion Project

Background:

- Project was first identified by the Racialized Populations and Mental Health and Addictions Community of Interest (COI), made up of a number of key stakeholders including the Provincial HSJCC
- In 2016, the COI began to focus on criminal court diversion programs and practices and examining how racialized populations were being served.
- This involved focusing on formal mental health diversion programs as well as informal diversion practices for racialized persons with mental health and addictions issues in the criminal justice system.



Racialized Populations and Mental Health Court Diversion Project

Objectives:

- Increasing understanding of how diversion is generally applied, specifically to racialized populations.
- Raising awareness about the need for standardization of race-based data collection throughout the criminal justice system for issues of equity to be properly addressed through evidence-based policies and practices.
- Contributing to existing strategies to improve the overall well-being of racialized populations moving through the criminal justice system.
- Examining perceptions of race in the justice system and how those perceptions impact the outcomes, as well as what is needed to effectively address systemic racial inequities



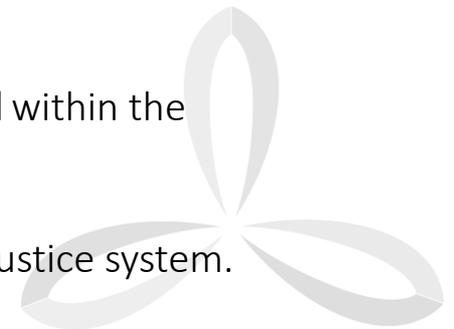
Racialized Populations and Mental Health Court Diversion Project

Methodology:

- In 2018, the COI conducted focus groups with both service providers and persons with lived experience to explore the experiences of racialized individuals as they interacted with mental health court support services and diversion.

Key Findings:

- Most people with lived experience reported **a lack of awareness** around diversion and mental health court support services
- Many expressed **confusion around court processes in general**, and specifically around diversion.
- Most participants agreed that their **race affected how they were treated** within the criminal justice system.
- Some participants indicated distrust and a lack of hope in the criminal justice system.



Racialized Populations and Mental Health Court Think Tank Day

- In January 2019, the COI hosted a Think Tank Day on the impact of race on mental health court diversion in Toronto.
- The event brought together over 100 participants in person and 50 more via webinar, including representatives from the Ministries of Health, the Solicitor General, and the Attorney General; duty counsel; police officers; probation officers; court support workers and managers; mental health and addictions services providers; and persons with lived experience.



Racialized Populations and Mental Health Court Diversion

Think Tank Day
January 7, 2019
10am to 4pm
Li Ka Shing Knowledge Institute,
209 Victoria St., Toronto, ON
Join us in-person or follow along online
To register please visit:
<https://bit.ly/2GdJ24q>

Keynote speaker:
Dr. Akwasi Owusu-Bempah, Assistant Professor
in the Department of Sociology at the
University of Toronto, Mississauga

Think Tank Day Objectives:

- Hear from **racialized individuals with mental health and addictions issues** who have interacted with the justice system
- Discuss why and when the criminal justice system should **collect standardized data.**
- Find strategies to improve the **wellbeing of racialized individuals** who are moving through the criminal justice system.

#MHJusticeandRace

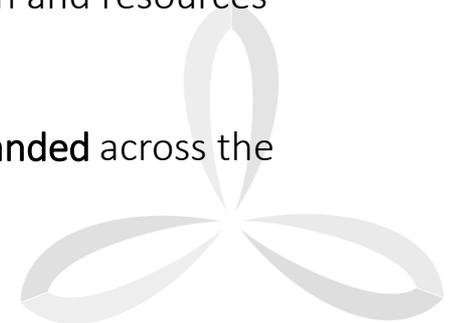
FREE
Lunch & Refreshments Provided
Racialized persons with lived experience/family members may receive an honoraria, TTC tokens or travel reimbursement. Please contact Candace Vena at cvena@ontario.cmh.ca

Hosted by the Racialized Populations and Mental Health and Addictions Community of Interest (COI)

Racialized Populations and Mental Health Court Diversion Project

Recommendations:

1. **Race-based data should be collected** throughout the criminal justice system to better facilitate access to mental health court diversion for racialized individuals.
2. **More culturally competent and trauma-informed services** within the justice system, including specialized training for police officers, are needed.
3. **Every member of the justice system**, including judges, police officers, and mental health court support workers should be **responsible for promoting** mental health court diversion.
4. **Culturally-specific system navigators** are needed to share information and resources with justice involved individuals.
5. **Mental health court locations and hours of operation** should be **expanded** across the province.





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CMHA Ontario Drug Treatment Court Scan (2019)

March 9th 2021

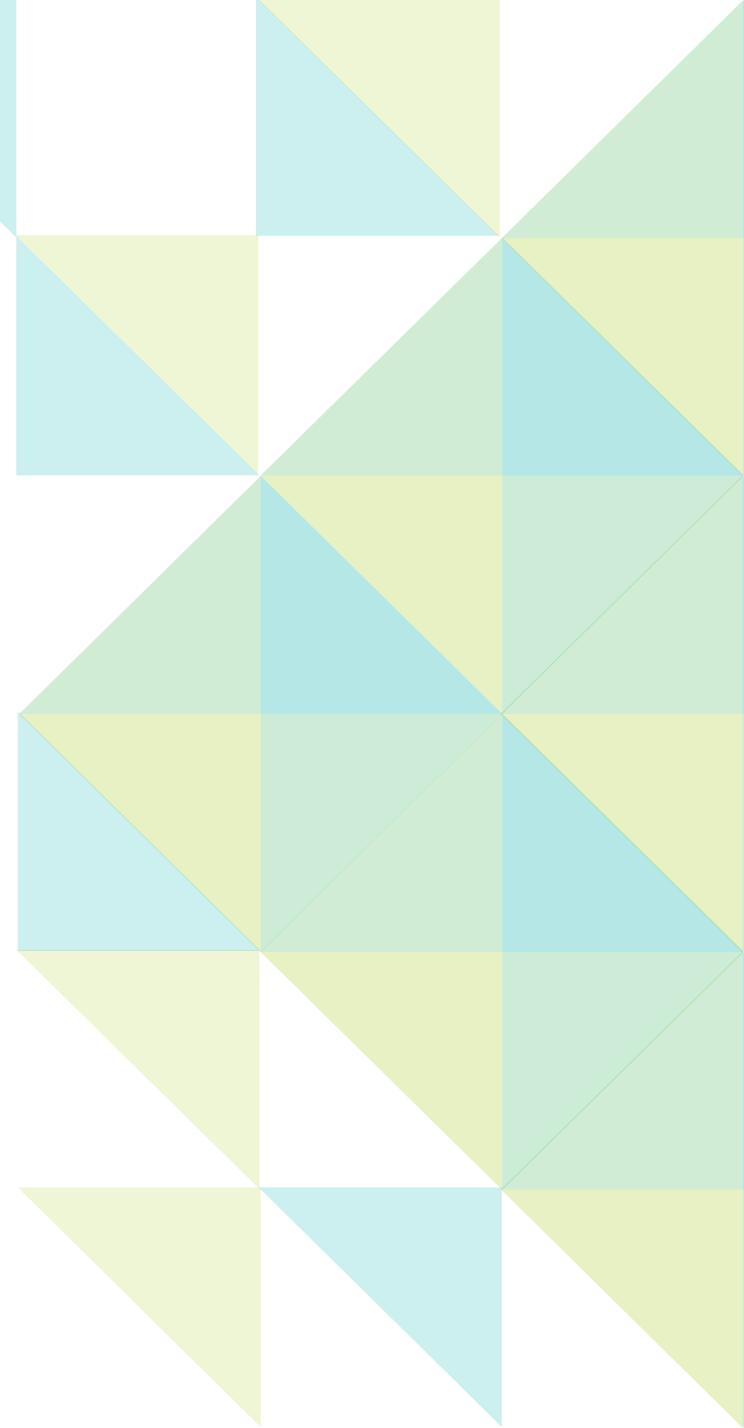
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Presented by:

Jean Hopkins

Policy Analyst, Addictions & Complex Care

Canadian Mental Health Association, Ontario



Ontario's Drug Treatment Courts



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Drug Treatment Court Principles

- Drug Treatment Courts integrate addiction treatment services with justice system case processing
- Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' Charter rights
- Eligible participants are identified early and placed in the Drug Treatment Court program as promptly as possible
- Drug Treatment Courts provide access to a continuum of drug, alcohol and other related treatment and rehabilitative services
- Compliance is objectively monitored by frequent substance testing
- A coordinated strategy governs Drug Treatment Court response to participants' compliance and non-compliance
- Swift, certain and consistent sanctions or rewards for non-compliance or compliance
- Ongoing judicial interaction with each Drug Treatment Court participant is essential
- Monitoring and evaluation processes measure the achievement of program goals and gauge effectiveness
- Continuing interdisciplinary education promotes effective Drug Treatment Court planning implementation, and operations
- Forging partnerships among courts, treatment and rehabilitation programs, public agencies and community-based organizations generates local support and enhances program effectiveness
- Ongoing case management providing the social support necessary to achieve social reintegration
- Appropriate flexibility in adjusting program content, including incentives and sanctions, to better achieve program results with particular groups such as women, Indigenous people and minority ethnic groups.



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CMHA Ontario's Drug Treatment Court Environmental Scan

- History and overview of the DTC system in Ontario
- DTC process
- Inclusion and exclusion criteria among the courts
- Program requirements and substance use treatment
- DTC Completion, graduation and aftercare
- Incentives and Sanctions



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Incentives

Sanctions

Praise/Encouragement from the Judge

Reprimanding from the Judge

Clapping from the court room

Community service hours or staying at court until the end of the day

Moving to another phase or part of the program (if applicable)

Written assignments such as a letter or essay

Small gifts or gift cards

Attending additional support meetings

Certificates of achievement

Discharge from the program



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Operational Challenges

- Funding
- Differing understandings of best practices
- Staffing and logistical challenges
- Access to support services, particularly for specific populations
- Cannabis and prescribed substances
- COVID-19



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Next steps

- Updating the environmental scan, including current challenges related to COVID-19 among Ontario DTC's
- Cannabis and DTC research project
 - In partnership with CMHA Ontario, John Howard Society of Ontario, P-HSJCC, Dr. Akwasi Owusu-Bempah (UofT). Funded by the Mental Health Commission of Canada

For further questions, please contact jhopkins@ontario.cmha.ca



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