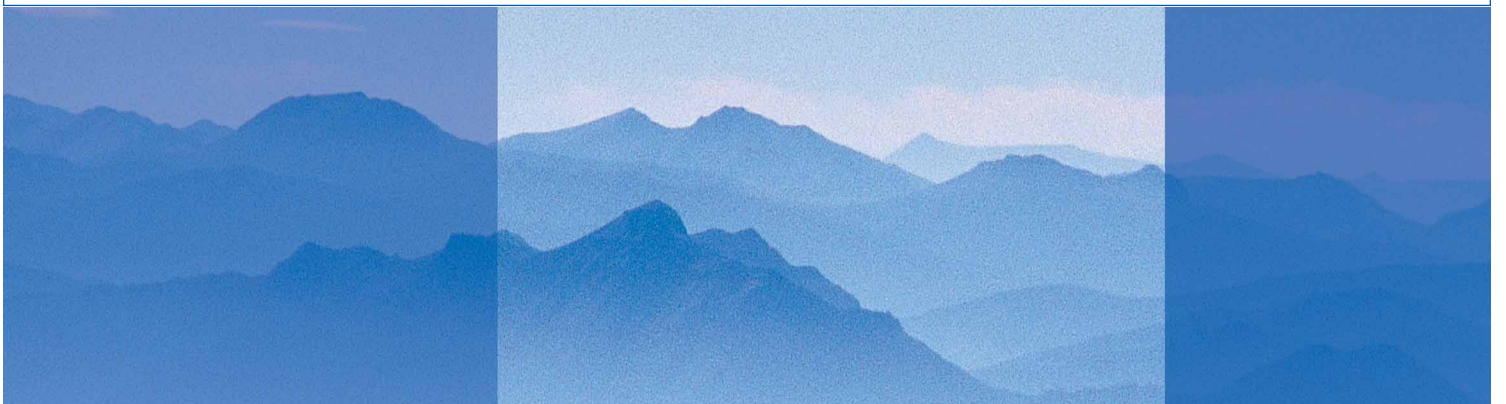




Mental Disorder, Substance Use and Criminal Justice Contact

SUMMARY REPORT

MARCH 2005





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Contents

INTRODUCTION	1
BACKGROUND AND RATIONALE	2 - 3
PROJECT OBJECTIVES	4
REGIONAL/COMMUNITY/PRACTITIONER SELECTION	5 - 6
ENGAGING COMMUNITY STAKEHOLDERS	7 - 8
STAGES OF CHANGE	9
STAGES OF CHANGE – 4 STAGE MODEL	10
ACTIVITIES AND TIMELINE	11 - 18
ADVISORY COMMITTEE AND CONSULTANTS	19
PROJECT COMPONENTS RELATED TO KEY INDICATORS OF SUCCESS	20 - 22
CLINICAL BEST PRACTICES	23
THE CONTINUOUS RECORD OF CARE	24
SYNERGY WITH OTHER INITIATIVES	25 - 29
DOMAINS OF EVALUATION	30 - 31
PROJECT LEGACY	32
MAKING LASTING REFORMS: ADDITIONAL NOTES ON SUSTAINABILITY	33
PARTNERSHIP TERMS OF REFERENCE	35



Minister's Message

The research findings outlined in this summary report give the BC Government an updated and expanded perspective on the difficulties faced by people with mental illness, substance use disorders, developmental disabilities and brain injury who come in to contact with the justice system. Both formal research and expert opinion underscore the need for an integrated approach across ministries and agencies to manage policy and administrative issues affecting mentally disordered offenders.

Brenda Locke

Minister of State for Mental Health
and Addiction Services



Background

In May 2003, the Minister of State for Mental Health brought together representatives from Ministry of Health Services (MOHS), Ministry of Children and Family Development (MCFD), Ministry of Attorney General (MAG) and the Ministry for Public Safety and Solicitor General (MPSSG) to address the prevalence of people with mental and substance use disorders who are involved in the justice system. The result was a cross-ministry commitment to develop a report about mentally disordered offenders in the justice system in order to identify the high priority and long-term issues for this population and provide recommendations to address these concerns.

THE MANY CHALLENGES ASSOCIATED WITH MENTAL HEALTH, SUBSTANCE USE AND THE JUSTICE SYSTEM ARE RECOGNIZED WORLD WIDE, AND A NUMBER OF REFORMS ARE UNDERWAY IN DIFFERENT JURISDICTIONS.

Invariably, these reforms reflect a combination of local needs, resources, legislation and a consideration of available evidence. A critical first step in the process of reform is careful review of available information. In British Columbia, the provincial government has formed an interministerial steering committee, with research support provided through the University of British Columbia. The UBC team, in collaboration with other experts in Canada and abroad, collected and analysed information in the following formats:

Literature Review a scholarly review of the international literature. To our knowledge, this is the most comprehensive review available of the professional literature pertaining to mental disorders, substance use disorders and criminal justice contact.

Survey of Other Jurisdictions highlighting areas of need and opportunities for reform in jurisdictions across Canada and elsewhere.

BC Data Analysis examining the administrative data for addressing mental illness and substance use in relation to the justice system in BC. These analyses are based on an unprecedented linkage of administrative information concerning corrections and health services for the population. In 1999/2000, there were 52,000 individuals (43,859 adults and 8,234 youth) involved with the provincial corrections system. Almost 15,000 (29 percent) of the total cohort were classified as mentally disordered offenders. The prevalence rate is nearly twice the rate for the general British Columbia population.

This document summarizes the major findings of this research and provides a series of recommendations. This information is intended to increase understanding of relevant issues and support the development of improved services and supports for people with mental disorders in relation to the justice system.

Note: For the purposes of this summary, mental disorders include the following: psychiatric illnesses, substance use disorders, concurrent disorders, developmental disabilities, and brain injury. In several instances throughout the text, substance use disorders are discussed separately because of the high prevalence among offenders.

A BROAD REVIEW WAS UNDERTAKEN IN ORDER TO INTEGRATE PUBLISHED FINDINGS FROM THE INTERNATIONAL SCIENTIFIC AND SCHOLARLY LITERATURE.

The information reviewed was limited to scholarly articles, chapters and academic reports. This work was conducted by a team of researchers in Australia and Canada, in consultation with select international experts.

The review begins with a discussion of research on the prevalence of mental disorders in the justice system, followed by a discussion of factors that influence involvement with the justice system and research on service utilisation patterns for people with mental illness.

A chief goal of the current initiative is the identification of strategies and solutions to address problems faced by mentally disordered offenders. The review includes research that has investigated the efficacy of various interventions, including diversion strategies and court programs for people with mental disorders. The final sections of the review present research on key issues such as staff education, professional training, infrastructure, policy/legislative innovations and economic analyses.

Prevalence of Mental Disorders in the Justice System. The results of the literature review show the prevalence rates of a wide variety of mental disorders are disproportionately high in the criminal justice system. Internationally, substance use disorders are among the most prevalent mental disorders in the criminal justice system. Substance use problems are endemic among inmates, and concurrent disorders (mental illness co-occurring with a substance use disorder) are the rule rather than the exception for offenders with mental disorders.

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Published research regarding the prevalence of developmental disabilities (Intelligence Quotient below 70) and low functioning (IQ above 70 with limited adaptive abilities) in offenders is riddled with methodological problems because most studies have not used valid IQ measures to identify those with an intellectual disability. Nevertheless, it appears the rate of intellectual disability is substantially higher for offenders than the general population. Co-existing psychiatric disturbances are also very common among intellectually disabled offenders.

There is minimal research related to brain injury among offenders. However, the literature indicates head injuries are strongly related to subsequent aggressive behaviour. The limited research available suggests the prevalence of head injuries in the corrections system is higher than in the community for both violent criminals (where head injuries are astonishingly commonplace) and non-violent criminals. The high prevalence of head injuries among offenders is also associated with a high prevalence of abnormal neurological features, suggesting that various forms of brain injury overall are widely prevalent in the criminal justice system.

Violence and Offending. When comparing offence and violence rates between people with mental illness and the general population, research has typically shown that those with mental illnesses have higher offence rates and higher rates of violence. While major mental illness is a risk factor for criminal violence, most people with mental illness are not offenders. A considerable body of research describes risk factors for offending. Both the mental disorder and the risk factors must be addressed in the treatment of offenders with mental disorders.

Research confirms that a relatively poor job is done identifying the needs of offenders with mental disorders prior to the time they enter the justice system; and deficiencies in the delivery of justice and health services results in escalating costs. The segregation of services and service gaps undermine the efficient management of individuals with complex needs.

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Diversion Strategies. There is a lack of published work examining effective interventions for the various groups of people that comprise the mentally disordered population in the justice system. Diversion of offenders with mental disorders is a necessary element of the criminal justice system, as research generally shows that a majority of these individuals commit low-level, non-violent offences. While this is a positive concept, diversion may have relatively little benefit to mentally ill offenders or those at risk due to the general absence of appropriate community-based services. Diversion of people with mental illness from the criminal justice system can occur at various stages: pre-booking (crisis intervention etc), mental health courts (divert into community based treatment program after arrest and charge) and post-incarceration (transition back into community). Unfortunately, and contrary to their purpose, mental health diversion programs often result in a lengthier and more intensive intervention than more traditional criminal justice processes.

Mental Health and Drug Courts. A variety of court programs exist that serve to reduce the number of people with mental illness that end up in corrections facilities, particularly when they have not committed serious offences. Some of these programs are essentially court diversion programs where courts have instituted procedures to identify and divert people with mental illness from the criminal justice system. In addition, courts have implemented programs in which mental health staff function as liaisons between courts and community-based services, which are required by mentally ill defendants. Finally, there has been a movement to develop specialized courts to deal with mentally ill defendants.

Although relatively commonplace, court diversion programs have not been thoroughly evaluated. Generally the research shows that these programs successfully identify mentally ill offenders, but little outcome research has been conducted. Typically, as well, there is a problem finding appropriate services.

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The advent of mental health courts and other specialty courts, including drug courts, has been one of the most dramatic developments in the area of mentally disordered offenders in recent times. The first mental health court was established in Los Angeles some 30 years ago. Since that time, mental health courts have been established in several jurisdictions around the United States and in other countries, including Canada (e.g., Toronto). Although perceived by some as a resounding success, the reality is that relatively little is known about the efficacy of these alternative court programs. Despite their promise, authors have pointed out that many important questions are still unknown.

Drug courts have proliferated, particularly in the United States where, as of 2001, there were some 688 courts operating. The first drug court was established in Dade County, Florida in 1989. Overall, both mental health courts and drug courts provide some positive outcomes, yet relatively little good outcome data are available even with the increase in the number of programs. Moreover, virtually no data exist to compare mental health courts to other alternative service systems. Finally, the available information on mental health treatment and mental health courts suggests the importance of assertive case management for individuals who participate in mental health court systems.

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Workforce Development. A major shortcoming in the mentally disordered offender field is the general lack of systematic staff education and available professional training. Correctional officers view mentally disordered offenders as being more difficult to work with than other inmates, and they express the need for training in identifying and managing them. As the number of inmates with significant mental health problems and other mental disorders is so large, it is critical that front-line correctional staff and community corrections staff be well informed and skilled in the area of communicating with and managing inmates. The only successful correctional mental health programs are those that have collaboration between correctional staff and mental health staff. In addition to corrections officers, all other staff, particularly chaplains, teachers, and others should be drawn upon to assist with monitoring inmates who have been diagnosed with mental disorders. Similarly, police officers require complementary training and experience.

Economic Analyses. The purpose of cost-effectiveness analysis and cost-benefit analysis is to develop an evaluative framework to ensure the most efficient delivery of human services. Generally speaking, few scholarly articles exist to sustain the cost-benefit and cost-effective analyses of therapeutic programs in prisons. The published analyses show there is good evidence that in-prison and community-based offender programs are cost-effective and have a relative cost-benefit. Unfortunately, there are no published articles that provide an economic analysis of services for offenders with mental illness. Further analyses of programs for offenders with mental disorders are necessary.

TO SUPPLEMENT THE SCHOLARLY REVIEW, BC CANVASSED FEEDBACK FROM SENIOR MENTAL HEALTH AND CORRECTIONS ADMINISTRATORS IN VARIOUS JURISDICTIONS.

Canadian provinces and territories were surveyed, as well as selected international jurisdictions that are similar in population and culture to British Columbia (New Zealand, Scotland and Victoria, Australia). A respondent from the state forensic service in Maryland, USA was also surveyed, given that state's excellent reputation in this area. Survey responses were returned from 13 of the 16 jurisdictions. Respondents were asked to provide information concerning their current service models, current challenges and areas considered to be functioning well.

Service Models. The results of the survey suggest there are both common themes and diversity in service models concerning corrections and mental illness. Specialized forensic services appear to be well represented among the various jurisdictions. Some of these provide inpatient care in forensic hospitals, while others have specialized units within the corrections system. A continuum of care from inpatient services to the community is also well established, either through specialized services or links to general community psychiatric treatment. An array of allied services is also evident (housing, family services, etc.).

Despite the considerable literature on mental health courts, they are currently rare among our respondents, with only New Brunswick reporting a pilot program at this stage. Although Ontario has a mental health court, no mention was made of it in the information provided by the Ontario respondent. Perhaps this is because the Ontario court provides rather limited services to individuals who are unfit to stand trial or not criminally responsible on account of mental disorder. Further information can be found at <http://www.attorneygeneral.jus.gov.on.ca> and www.health.gov.on.ca/index.html.

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By contrast, New Zealand and the state of Victoria, Australia have court liaison programs that provide both diversionary services as well as the identification of offenders eligible for special consideration as forensic patients (i.e., unfit to stand trial or not criminally responsible on account of mental disorder).

Challenges. The most pressing challenge identified by Canadian and International respondents (60 per cent) was the need for increased resources for mentally ill offenders. The urgent need for additional resources was significant and a number of areas of need were identified, including: (i) increased secure forensic psychiatric beds, as offenders with serious mental illness often remain in correctional institutions for extended periods while awaiting an available bed; (ii) better follow up; (iii) increased programs for individuals with concurrent disorders; (iv) sustainable funding for diversion and family violence treatment program initiatives; and (v) funding to ensure continuity of care upon return to the community.

The next most urgent service/program indicated is increased community services for offenders. Half of respondents indicated that community services are urgently needed. The list of required community services includes community based residential support; community settings for inappropriately placed patients; increased safe community accommodation (clients are currently on waiting lists for up to one year for appropriate community housing); and increased programs for social reintegration of offenders into the community.

Programs to address the needs of cognitively challenged offenders were seen as urgent by 30 per cent of respondents. No specific program needs were indicated. Rather, it was simply indicated that these individuals urgently need programs and services. One third of respondents indicated that diversion programs such as mental health courts and drug courts were urgently required, and 30 per cent also responded that programs and services were urgently needed for individuals suffering from Fetal Alcohol Spectrum Disorder.

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Other program and service needs were indicated as urgent by one-fifth of respondents, including more youth services; better collaboration between health service providers and criminal justice personnel; better diagnostic services to place people in appropriate programs and housing; increased funding for research and dissemination of information; a need to change the public perception of mentally ill offenders and reduce stigma; and a need for better case management. Only one respondent indicated a need for enhanced mental health services for prisoners and coordination of services for individuals with concurrent disorders in the community.

Strengths. There was considerable variability between respondents regarding programs or services they felt were functioning well. Some examples are described below.

Formal Inter-Agency Collaboration. Currently the Alberta Mental Health Board and the Mental Health and Justice Deputies Committee are collaborating on a provincial diversion framework to “ensure that whenever appropriate, adults and adolescents with mental illness who are in conflict with the law receive appropriate care, support and treatment from mental health, social and support services, thereby reducing reliance on the criminal justice system.”

Several Ontario agencies are supporting the Intensive Rehabilitation Custody and Supervision Order (IRCS), which will be introduced as part of a new Youth Criminal Justice Act. The IRCS is a federal initiative intended to address the needs of violent youth who meet a variety of criteria including suffering from a mental illness/disorder, psychological disorder or emotional disturbance.

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In New Brunswick, community mental health services and correctional mental health services are developing a standard provincial referral form to facilitate information exchange between their respective agencies. Under New Brunswick's Release Protocol, Corrections Services Of Canada and New Brunswick Community Corrections Services work with mental health services in discharge planning for offenders with mental disorders who are being released from prison.

In Saskatchewan the forensic unit at the North Battleford Hospital works closely with corrections and Public Safety and Mental Health Services in the pre- and post-disposition process, ensuring coordinated treatment strategies between corrections and mental health services. The Complex Needs Strategy improves services by encouraging those departments with necessary resources to work together to aid individuals with special needs.

Telehealth. Alberta has adopted a Tele-Mental Health Program that allows for forensic psychiatric intervention in regional and outlying communities in a timely and cost effective manner through the use of video conferencing equipment. Priority for this program is given to those on probation, those with court ordered treatment conditions, sexual and violent offenders and individuals with severe and persistent mental illness.

Dedicated Services. Ontario has also established a secure treatment unit in the St. Lawrence Valley Correctional Treatment Centre, which provides forensic psychiatric services in conjunction with the Ministry of Health and Long-Term Care and the Royal Ottawa Hospital. They have found the benefits of the unit to include improved treatment outcomes, the ability to aggressively pre and post test individuals, improved pharmacological care, decreased cost of transporting offenders for treatment, integration of discharge planning with available community resources in the offender's home community and holding offenders for shorter periods, therefore reducing treatment backlogs.

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In Victoria, Australia, Parliament passed the Human Services (Complex Needs) Act in 2003. The Act provides a legislative framework for the Multiple and Complex Needs (MACN) Initiative. The MACN Initiative targets a relatively small number (approximately 220) of Victorians with complex needs who have essentially failed in the system. Individuals with complex needs were defined as having two of the following: mental illness, severe personality disorder, intellectual impairment, acquired brain injury, substance use disorder. Background research for the legislation showed that the cost of maintaining people in this group was approximately \$28,000,000 (AUD) per year (average of \$129,000 per person). This cost includes everything from hospital bed stay to incarceration and intensive supervision, and despite such expense, the targeted people failed in the community. The MACN Initiative consists of three components: Careplan Assessments Victoria; the MACN Panel; and the MACN Intensive Case Management Service.

Also in Australia, Forensicare has developed a comprehensive program to provide integrated mental health and substance use services, as well as services that address offending behaviour issues beyond mental illness. This program is unique insofar as most forensic mental health services provide psychiatric services to offenders/patients, but they do not systematically provide services that address the risks that relate to offending.

Maryland supports a conditional release program for people found not criminally responsible (not guilty by reason of insanity). Conditional release monitors work closely with health professionals serving individuals on conditional release in the community. The re-arrest rate for individuals in this program (under 3 per cent) is lower than the general arrest rate in Maryland.

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Educational Programs. New Brunswick has implemented programs for the education of frontline staff regarding correctional systems approaches, community supervision, and the reintegration of incarcerated individuals. In Scotland, there are specific programs within the state hospitals to address substance abuse education and relapse prevention, anger management, sex offenders, reasoning and rehabilitation, problem solving skills training and fire setting. Maryland operates excellent facility-based forensic mental health evaluations and treatment programs, particularly at its maximum-security facility, the Clifton T. Perkins Hospital Center. Staff members who do evaluations for the courts complete a three-day training program coordinated by the Office of Forensic Services. In-service training and an annual forensic symposium are also offered.

ADMINISTRATIVE DATABASES EXIST IN DIVERSE BRANCHES OF GOVERNMENT, AND REFLECT THE OPERATIONS OF DIFFERENT PUBLIC SERVICES.

Many jurisdictions have begun analysing administrative data to support policy and service improvements, alongside other applications. However, it appears, BC is the first jurisdiction to conduct analyses that integrate health and corrections services data. For the purposes of the present initiative, analyses were based on the population of individuals involved with the provincial corrections system in the year 1999/2000. Health service utilization regarding mental illness or substance use problems for this population was analysed retrospectively for the years subsequent to 2000. Results are summarized separately for youth (17 years or younger) and adults.

In comparison to youth in the general population, youth within the corrections system were about 1.5 times more likely to have been diagnosed in the previous year with a mental disorder. They were no more likely than youth in the general population to have been recently diagnosed with psychoses or mood disorders, perhaps due to the generally later age of onset of these disorders. The forms of mental illness that are most prevalent among youth in the general population (e.g., Hyperkinetic Syndrome) were 4-5 times more prevalent among youth in the corrections system. Youth in corrections were significantly more likely to have been diagnosed with a substance-use disorder in the past year (2.9 - 4.8 times).

Adults in the corrections system were more likely (1.2-1.9 times) to have been diagnosed in the previous year with a mental illness than the general population. Rates of substance use in the adult corrections cohort were 11-13 times greater than the general population rates. As noted in the literature review, substance use problems appear to be endemic among prisoners.

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Further analyses focused on the kinds of health services received by the corrections population. Methadone treatment stood out as the primary health service provided to people in the corrections system, accounting for a steadily increasing proportion of the Medical Services Plan billings for the adult corrections cohort in the years prior to and following the year 1999/2000. In 1999/2000, only a small minority of the corrections population with substance use disorders received methadone-related services, and the availability of additional services for the majority of offenders with substance use disorders remains unclear. Specific forms of counseling (e.g., motivational enhancement therapy) are an important feature of effective treatment for injection drug users, and are the most effective form of treatment for the most prevalent types of substance use disorders (i.e., alcohol-related problems).

Individuals may serve sentences in the community or in custody. Health services records were examined for the community and custody cohorts separately. Both groups were associated with relatively stable patterns of healthcare over the years prior to and following their involvement with corrections in 1999/2000. Of note, the most common diagnosis among the custody cohort was related to substance use, while the most common diagnosis in the community setting was for mental illness.

Approximately 72 per cent of the corrections cohort aged 15-64 accessed physician services in the index year (1999/2000). By comparison, approximately 85 per cent of the general population accessed physician services in the same year. In interpreting this discrepancy it must be remembered that members of the corrections cohort spent some (or all) of the index year in custody. In addition, 42 per cent of physician services provided in corrections facilities were related to mental disorders. Following release from prison, the overall volume of mental health services continued to increase, suggesting high rates of retention in services. It should be noted that the present analyses reflect overall rates of service utilization within the cohort. Further analyses are needed to determine the continuity of services to individuals.

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Of related interest, a rising proportion of those individuals who would eventually enter the corrections system (in 1999/2000) presented to physicians in the preceding years with substance-related problems.

Hospitalization rates were reviewed. Individuals with mental illness were hospitalized more frequently than others (between 1 and 5 times, depending on the type of mental illness). Individuals with substance related disorders were 13 times more likely to be hospitalized. In addition, the average length of stay for people with mental illness or substance use disorders was nearly twice that of the general population (7.9 days versus 4.8 days).

Prior to sentencing by a court, cases may be resolved in a number of possible manners. A series of analyses were carried out in order to estimate whether persons with mental illness or substance use problems were less likely than other offenders to enter court, or to be sentenced to jail. In summary, it appears that individuals who were associated with mental health or substance use problems (based on sheriffs' reports) were more likely than others to have their matters resolved by a court (as opposed to pre-court), and that those associated with mental health or substance use problems were slightly more likely to be found guilty.

Individuals with substance use disorders were more likely than other offenders to have been convicted of a summary offence (an offence involving a maximum punishment of between 6 and 18 months). Individuals with mental disorders were no more likely than other offenders to have been convicted of summary offences. Finally, rates of repeat incarceration were examined for persons with mental illness. In general, people with serious mental illness did not appear to be coming into contact with the corrections system at a greater frequency than others.

THE LITERATURE REVIEW, SURVEY OF OTHER JURISDICTIONS, AND BC DATA ANALYSIS REPRESENT DIFFERENT SOURCES OF INSIGHT INTO THE CURRENT PROBLEM.

Nevertheless, there are several findings consistent across these sources of information.

- Mental disorders are highly prevalent in the corrections system, but are overshadowed by the prevalence of substance use disorders relative to the population at large.
- There is a high level of need for resources to support the assessment and treatment of substance use and mental disorders in relation to the justice system. This includes improving the coordination of existing services and eliminating gaps in care.
- Formal inter-agency collaboration is essential. However, different regions are tailoring structural changes to their own needs. While structural reforms are needed, there is insufficient evidence to support the selection of specific program innovations across all jurisdictions.
- As reforms are introduced, it is imperative that they are subjected to meaningful research concerning their effectiveness, including their cost-outcome. This information is integral to the stability and quality of programs, and it will contribute to the international pool of available ideas and evidence.
- The needs of a subset of complex clients warrant focussed attention. Evidence indicates that inefficient service deployment contributes to a high cost of service to such individuals, with outcomes that are not commensurate with this investment.
- BC data illustrate relatively stable patterns of treatment for mental disorders during the years prior to and following a term in jail. The proportion of the corrections population that receives physician services is comparable to the level of services in the general population. These findings positively suggest that many individuals are engaged with the system of care.

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- BC's accomplishments toward integrated planning and evaluation are unrivalled. The extent of collaboration involved in the present initiative (as well as the products), has attracted considerable interest and support from diverse stakeholders within BC, Canada, and internationally.

The research and consultations that are distilled in this report were undertaken to enrich understanding of a critical area of international concern. This work was also undertaken to support planning and progress for the benefit of British Columbians. Following are a series of recommendations that are offered for consideration as the next steps in a long-range process of reform.

THE FINDINGS AND RESULTS SUMMARIZED ABOVE SERVED TO INFORM A SERIES OF RECOMMENDATIONS FOR REFORM IN BRITISH COLUMBIA.

Recommendations were developed through consensus with each participating Ministry, and in consultation with a variety of concerned stakeholders. Thirteen recommendations are outlined below, organized under three headings: Inter-Agency Collaboration Recommendations; Information Collection and Analysis Recommendations; and Program Model Recommendations.

Inter-Agency Collaboration Recommendations

Formal research and expert opinion collectively underscore the need for an integrated approach to policy and administration for clients who access cross-ministry and cross-agency services. The following recommendations address this need.

- 1/** Establish a permanent alliance for co-operation among ministries at the executive level to address interrelated issues of mental disorders, substance use disorders and criminal justice.
- 2/** Establish regional and local working groups to integrate existing resources and jointly manage the implementation of targeted initiatives addressing mental disorders, substance use disorders and the justice system.
- 3/** Support evaluation of services and supports for individuals with mental disorders and substance use disorders.
- 4/** Establish protocols guiding the diversion of individuals with mental disorders and substance use disorders from the justice system into the community-based care system.
- 5/** Develop an inter-ministerial strategy linked to the Premier's Task Force On Homelessness.

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Information Collection and Analysis Recommendations

The following recommendations seek to build greater capacity for drawing on evidence to clarify and substantiate government priorities and evaluating new developments and trends.

6/ Match existing government databases on an ongoing basis to support integrated systems analysis.

7/ Identify indicators that provide compelling high-level insight into the performance of services for people with mental and substance use disorders in relation to the justice system. Develop a report format in order to monitor the performance of systems and services over time.

8/ Produce regular management information reports to support strategic planning, including indicators of cost-effectiveness and the impact of targeted initiatives.

9/ Examine options for sharing information to support client health and public safety. Develop protocols concerning information sharing between agencies and service providers where health and safety-related considerations are compelling.

10/ Analyze administrative data regarding the cohort of individuals who generate the greatest volume of activity through justice, health and social services, and develop implications for policy and service reforms.

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Program Model Recommendations

Research confirms the urgent need for alternatives to justice system and corrections for people with mental disorders, as well as the specific need for services to address substance use disorders among this population.

11/ Plan and support implementation of staff education and professional training opportunities for community-based service providers.

12/ Implement and evaluate a pilot service for the identification, diversion and treatment of low-risk mentally disordered offenders to enhance continuity of care between corrections and community settings.

13/ Enhance and evaluate the pilot assertive community treatment services for clients with multiple and complex needs, including adults and youth.



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