

HSJCC Info Guide

**Strategies for Community Service Providers for
Engaging in Communication with Correctional
Facilities in Ontario**

Provincial Human Services and Justice Coordinating Committee

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Background and Purpose

The purpose of this Info Guide is to assist community service providers to develop strategies for enhancing communication with their local correctional facility in Ontario. The impetus for developing this Info Guide was the recommendations from the Coroner's Jury Inquest into the death of Glen Bocskei, an individual who was receiving community mental health services, who died while in correctional custody. The Inquest recommendations highlighted the need to improve communication protocols between community mental health and addictions agencies and correctional centres.

To access the Bocskei Inquest Recommendations (2011), visit:

<http://www.hsjcc.on.ca/Uploads/Bocskei%20Verdict%20of%20Coroner's%20Jury%20March%204%202011.PDF>

This Info Guide was developed by a working group of the Provincial Human Services and Justice Coordinating Committee (HSJCC). The HSJCCs were established in response to a recognized need in the province to coordinate resources and services, and plan more effectively for people who are in conflict with the law. Priority consideration is for people with a serious mental illness, developmental disability, acquired brain injury, drug and alcohol addiction, and/or fetal alcohol syndrome.

The information contained in this document was compiled through a call for information which was distributed through the HSJCC networks to community mental health and addictions and community correctional service providers across the province, as well as the Ministry of Community Safety and Correctional Services and the Ministry of Children and Youth Services.

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Why Communication Is Important

According to the Office of the Correctional Investigator (2010), mental health is the most significant issue facing the correctional system in Canada. One in four individuals admitted to correctional facilities present some form of mental health condition, and many have a concurrent disorder, such as substance use. The prevalence rate of males presenting with mental health conditions is 37%, and the rate for females is 50%. Yet, the percentage of males receiving some type of mental health service is only 35%.

A recent study conducted by Dr. Greg Brown at Nipissing University (2009) examined the prevalence of mental health conditions among individuals in correctional facilities in Ontario. The findings indicated that in comparison with hospital and forensic patients and community mental health clients, individuals with a mental illness in correctional facilities (mentally disordered offenders) represent a unique mental health/psychiatric subgroup. Findings estimated that 5% of individuals demonstrated a “high” number of severe symptoms of a mental illness and 35.1% of individuals demonstrated a “moderate” number of symptoms of a severe mental illness. More than 2/3 of individuals in the sample demonstrated needs for mental health services. More than 60% of individuals demonstrated a need for assistance in establishing a social support system.

Although mental health services are being offered to individuals in correctional facilities, there are many individuals who fall through the cracks of the system, resulting in fatalities. Recent investigations pertaining to individuals who have died while in correctional custody include, the Ashley Smith (died October 19, 2007) and Byron Debassige (died February 16, 2008) Inquests in Ontario, the Howard Hyde Inquest in Nova Scotia (died November 22, 2007), and the Robert Dziekanski Inquest in British Columbia (died October 14, 2007). Each of these inquests has focused on the importance of early identification and intervention for individuals with mental health and addictions conditions.

Communication is essential for early identification and intervention. It is important to share information in order to manage crisis situations and ensure the safety of both individuals in the correctional facilities as well as correctional staff. The balancing of individual rights and privacy legislation during the communication process is a critical aspect that must be considered to ensure confidentiality while allowing the individual to access the mental health and addictions services they require.

Successful approaches to communicating with correctional centres

Building trust between community organizations and correctional facilities is the key to facilitating communication to better coordinate the care of individuals with mental illnesses, developmental disabilities, acquired brain injuries, drug and alcohol addictions, fetal alcohol syndrome, and other hidden disabilities. According to the Ministry of Community Safety and Correctional Services (2011), all final decisions related to access to the facilities and/or the individuals rest with the most senior manager responsible for correctional operations at each facility. As such, community organizations should establish contact with and begin to develop working relationships with the senior managers of the correctional facilities.

Information from the field indicates that a successful approach to facilitating communication with correctional facilities is to host information and educational sessions for correctional staff to better understand the function of community organizations, and the role that community agencies play in assisting individuals with mental illnesses, developmental disabilities, acquired brain injuries, drug and alcohol addictions, fetal alcohol syndrome, and other hidden disabilities.

Another successful approach to facilitating communication is to request meetings with the key people who are involved with the individuals' care, including correctional staff and healthcare providers. Regular meetings need to be established to monitor progress and discuss new cases as they arise. In addition, it is important to keep detailed documentation of all of the procedures and actions that have taken place by the correctional facility and the community organization.

Thus, establishing contact with the senior manager of the correctional facility is the first step to establishing a clear channel of communication.

Challenges that may arise during the communication process

There are a few challenges that may arise during the communication process. Firstly, there is a significant difference between the culture of correctional facilities and that of community care providers. The priority of correctional staff is to ensure the safety and security of the facility and the individuals; whereas the priority for community care providers is the recovery of the client. As such, there can be miscommunications due to a lack of understanding of organizational culture.

Secondly, the correctional system is governed by a variety of different legislation and regulations, and each facility may have a different protocol for communicating with external parties. Miscommunications can arise from a lack of understanding by the community organization of the policies and procedures of the correctional facility. It is also important to note that there may be a lack of understanding regarding the proper protocols from correctional staff. During these situations, where correctional employees are not aware of the protocols outlined by the Ministry of Community Safety and Correctional Services, they may err on the side of caution in managing communication matters. Thus, it is important to establish a working relationship with the senior management of the correctional facility to better understand the specific protocols that govern the correctional facility.

Helpful Suggestions for Enhancing Communication

Key components of correctional operations that community service providers should be aware of when communicating with correctional centres

According to the Ministry of Community Safety and Correctional Services (2011), final decisions related to access to the correctional facilities and/or the individuals rest with the most senior manager responsible for correctional operations at each facility. Thus, establishing contact with the senior manager of the correctional facility is the first step to establishing a clear channel of communication.

Timeframe for sharing information

According to the Ministry of Community Safety and Correctional Services (2011), normal business hours at correctional facilities are Monday to Friday from 8:00 am to 5:00 pm. In the event of an emergency or where critical information needs to be shared, contact can be made at any time. Any person that has information which affects the health and/or safety of an individual, including possible suicidal ideation, is encouraged to contact the operational manager in charge of the facility.

Format for sharing information

Information from the field indicates that the best format for sharing critical information regarding an individual is an email or fax, followed by a phone call. When making the follow-up phone call, it is recommended to request the contact information of the correctional staff person who is receiving the information, in order to maintain contact during and/or to reconnect following the critical incident.

Contact person for sharing information

According to the Ministry of Community Safety and Correctional Services (2011), the final decisions related to access to the correctional facilities and/or the individuals rest with the most senior manager responsible for correctional operations at each facility. Information from the field also indicates that the Superintendent, Security Manager and Health Department of each facility are other key contact persons to be communicating with.

In general, the most effective way to communicate with correctional facilities is to develop positive working relationships with the administrators of the institutions and to develop a mutually agreed upon protocol between the correctional facility and the community organization which adheres to relevant legislation and policy. It is best to contact the institution directly for information/clarification about institutional policies.

For additional information regarding adult correctional facilities in Ontario, visit:

http://www.mcscs.jus.gov.on.ca/english/corr_serv/adult_off/facilities/corr_centres/corr_centres.html

A Note About Confidentiality

In Ontario, health information is protected by *the Personal Health Information and Protection Act, 2004* (PHIPA). Section 4 of the Act states that personal health information includes any identifying information about an individual, in oral or recorded form, as it relates to their physical or mental health. Under Section 3 of PHIPA, only a “health information custodian” can have custody or control of personal health information as a result of, or in connection with, performing the person’s or organization’s powers or duties.

In *Circle of Care: Sharing Personal Health Information for Health-Care Purposes*, the Information and Privacy Commissioner of Ontario (2009) describes “the circle of care.” Although the circle of care is not defined under PHIPA legislation, it is a term commonly used to describe the ability of certain health information custodians to assume an individual’s implied consent to collect, use or disclose personal health information for the purpose of providing health care, in circumstances defined in PHIPA. This document indicates that correctional officers and police officers are excluded from the circle of care.

Section 29 of PHIPA states that the individual’s consent must be obtained before health information is collected or disclosed. However, PHIPA does allow exceptions to the rule concerning when health information can be shared. Under Section 40, PHIPA states that a health information custodian may disclose personal health information about an individual if the custodian believes on reasonable grounds that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons.

Therefore, in the context of communicating with correctional centres, consent is needed from the client before healthcare providers can share mental health information with correctional facilities, unless the disclosure is necessary for the purpose of eliminating or reducing a significant risk or serious bodily harm to the individual or others.

Accordingly, the Ministry of Community Safety and Correctional Services (MCSCS) has developed a comprehensive policy for managing health information within correctional facilities. The policy, titled *Management of Personal Health Information (2009)*, is contained within the MCSCS *Health Care Services Policy and Procedures Manual*. This policy is a summary of the provisions of PHIPA and is intended to provide direction to health care staff working in correctional facilities with respect to disclosing information contained in an individual’s health care records.

To access the MCSCS Management of Personal Health Information Policy (2009), visit: <http://www.hsjcc.on.ca/Uploads/MCSCS%20Policy%20on%20Management%20of%20Personal%20Health%20Information%20April%202009.pdf>

To access the *Personal Health Information and Protection Act, 2004*, visit: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_04p03_e.htm

To access the Information and Privacy Commissioner's report *Circle of Care: Sharing Personal Health Information for Health-Care Purposes* (2009), visit:
<http://www.ipc.on.ca/images/Resources/circle-care.pdf>

For a detailed summary of PHIPA legislation, refer to Section 3.7 of the HSJCC report *Police & Mental Health: A Critical Review of Joint Police/Mental Health Collaborations in Ontario* (2011) at: http://www.hsjcc.on.ca/Uploads/PHSJCC_Police-MH_Final_Report_January_31_2011.pdf

To access the Office of the Information and Privacy Commissioner of Ontario, visit:
<http://www.ipc.on.ca/english/Home-Page>

A Note about Youth and Corrections

Similar to the adult correctional system, building trust between community organizations and youth justice facilities is the key to facilitating communication to better coordinate the care of young persons with mental illnesses and addictions. Establishing contact with a senior manager of the youth facility is the first step to establishing a clear channel of communication. Furthermore, information sharing pertaining to youth (under 18 years of age) who are involved with the criminal justice system is restricted under the parameters of the *Youth Criminal Justice Act*, April 1, 2003 (YCJA). Thus, it is important to establish a working relationship with the clinical team of the youth facility to better understand the specific protocols that govern communication with the facility.

According to the Ministry of Children and Youth Services (MCYS) Youth Justice Services Division, staff who are health information custodians, as defined by the *Personal Health Information Protection Act* (PHIPA), have ethical and legal responsibilities to maintain the confidentiality and privacy of a young person's personal health information that is obtained while providing care. Personal health information shall not be disclosed to unauthorized third parties who should not have access to the information.

Health care records requested for other than health care or treatment purposes shall require the written consent of the young person or their substitute decision-maker prior to being released. In general, a youth must consent to the collection, use and disclosure of their personal health information. PHIPA sets out specific exceptions to this rule so that some collection, use and disclosure without consent may be permitted (e.g. for purposes of contacting family member or friend of an individual who is injured, incapacitated or ill). However, regardless of whether or not the young person or their substitute decision-maker has consented to the release of personal health information, health care records shall not be released to 3rd parties who are not authorized to access information under the confidentiality provisions of the YCJA, until they have been carefully reviewed to make sure that there is nothing in the record that identifies the young person as being subject to the YCJA.

Please note that in the event of a conflict, YCJA privacy provisions prevail over PHIPA. If for any reason, disclosure of the YCJA record is not authorized by the YCJA, then there can be no disclosure under PHIPA. In addition, the young person's original health care record is the property of the Ministry and shall not be distributed to facilities or institutions not directly operated by the Ministry of Children and Youth Services.

Critical Information Exchange

Review and/or sharing of critical information in a timely manner is important for any service provider involved with a young person. The MCYS Youth Justice Services Division has established a clear and specific process that assures critical information is identified and shared in an expedient manner.

For additional information regarding Youth Justice Services in Ontario, including secure custody facilities for youth, visit: <http://www.children.gov.on.ca/>

To access the *Youth Criminal Justice Act*, 2002, visit: <http://laws-lois.justice.gc.ca/eng/acts/Y-1.5/>

Communication Protocols in Ontario

Across Ontario, HSJCCs have developed innovative methods for communicating and sharing information with correctional facilities and police services while still continuing to abide by the requirements of the *Personal Health Information and Protection Act, 2004*. Listed below are sample communication protocols that are being utilized throughout the province.

COAST Hamilton: Guide to Sharing Information with Police and Dispatchers

This guide clearly outlines the circumstances under which Hamilton COAST workers can and cannot share information with Hamilton Police Services. The guide provides a discussion about legislation relating to health information sharing, situations when PHIPA can be breached to ensure everyone's safety, procedures for sharing information, and a step-by-step guide to managing telephone inquiries from police/dispatchers. The guide also highlights situations when health information absolutely cannot be shared.

<http://www.hsjcc.on.ca/Uploads/COAST%20Hamilton%20Guide%20to%20Sharing%20Information.pdf>

Lanark County LEAD Team: Police/Mental Health Referral Form

This is a standardized form used in the Lanark County LEAD Team Protocol. Any LEAD Team police officer in Lanark County who escorts an individual to the emergency room completes this referral form and submits a copy to Lanark County Mental Health, a community based mental health agency. Subsequently, Lanark County Mental Health conducts a follow-up appointment with the individual. After obtaining consent from the individual, Lanark County Mental Health informs the police whether or not the individual is receiving follow-up care (the only information that is shared is whether or not the individual is attending follow-up services; treatment details are not shared).

<http://www.hsjcc.on.ca/Uploads/Lanark%20County%20LEAD%20Team%20Police%20Mental%20Health%20Referral%20Form.pdf>

Release from Custody Protocol between Central North Correctional Centre and Canadian Mental Health Association, Simcoe County Branch

This protocol is an agreement between CMHA Simcoe County Branch and Central North Correctional Centre designed to assist individuals with mental health conditions who are in correctional custody to make linkages and access community services upon their release. Community case managers from CMHA Simcoe County Branch identify, assess and provide resources for individuals to help ensure community supports and treatment options, when requested.

<http://www.hsjcc.on.ca/Uploads/CMHA%20Simcoe%20County%20and%20CNCC%20Release%20from%20Custody%20Protocol.pdf>

Service Agreement between Algoma Treatment and Remand Center and Canadian Mental Health Association, Sault Ste. Marie Branch

The purpose of this memorandum of understanding (MOU) is to assist individuals with special needs to gain access to appropriate treatment in order to limit unnecessary involvement in the criminal justice system. The MOU clearly outlines the roles and responsibilities of the Algoma Treatment and Remand Centre and CMHA Sault Ste. Marie Branch. Included in the MOU as an appendix is the Urgent Needs Communication Report.

<http://www.hsjcc.on.ca/Uploads/ATRC%20and%20CMHA%20Sault%20Ste.%20Marie%20Service%20Agreement.pdf>

Simcoe County Human Services and Justice Coordinating Committee: Consent to Release Information Form

This is a form used in Simcoe County that requests clients' permission to share information between CMHA Simcoe County Branch, the Elizabeth Fry Society, Enaahdig Healing Lodge and Learning Centre, Native Inmate Liaison Officer (NILO) and the Ministry of Community Safety and Correctional Services to share personal information for the purpose of providing appropriate services.

<http://www.hsjcc.on.ca/Uploads/Simcoe%20County%20HSJCC%20Consent%20to%20Release%20Information%20Form.pdf>

St. Leonard's Community Services, Brant County: Brantford Jail Referral Form

This is a referral form used to direct individuals with mental health conditions and concurrent disorders from the Brantford Jail to appropriate case management services with St. Leonard's Community Services.

<http://www.hsjcc.on.ca/Uploads/St.Leonards%20Brantford%20Jail%20Referral%20Form.pdf>

Waterloo Regional Human Services and Justice Coordinating Committee: Prisoner Special Care Notice

A special care notice form is used in the Waterloo Region and filled out if an individual is considered high risk. High risk is defined as individuals known or suspected of having a mental health condition, emotionally disturbed, suicidal, violent, an escape risk, or anyone suffering from a communicable disease, physical disability, excited delirium, requiring protective custody, or requiring medication for a life-threatening condition.

<http://www.hsjcc.on.ca/Uploads/Waterloo%20Regional%20HSJCC%20Prisoner%20Special%20Care%20Notice.pdf>

Communication Committees in Ontario

Across Ontario, HSJCCs have developed innovative methods for communicating and sharing information with correctional facilities and police services while still continuing to abide by the requirements of the *Personal Health Information and Protection Act, 2004*. Listed below are sample terms of reference for inter-professional committees that meet regularly to share information about common clients and cases.

Algoma Human Services and Justice Coordinating Committee

The committee consists of various stakeholders from the mental health and criminal justice sectors. Originally the group met to discuss plans for individuals with mental health conditions who met the eligibility criteria for services through the mental health court and to develop a plan for release from custody. Now the scope of the group has expanded to discussing cases of individuals that are not doing well in the jail setting and that would benefit from an early release with a plan to be admitted to the hospital (under Form 1 of the *Mental Health Act*).

<http://www.hsjcc.on.ca/Uploads/Algoma%20HSJCC%20Terms%20of%20Reference.pdf>

City of Kawartha Lakes Human Services and Justice Coordinating Committee

The committee undertakes planning, coordination, and discusses service availability for individuals involved or at risk of involvement with the criminal justice system who are living with a mental disorder, acquired brain injury and/or concurrent disorder. The structure, membership, voting rights, and quorum information is contained in this document.

<http://www.hsjcc.on.ca/Uploads/City%20of%20Kawartha%20Lakes%20HSJCC%20Terms%20of%20Reference.pdf>

Hamilton Human Services and Justice Coordinating Committee

The committee addresses concerns of adults and transitional youth with a serious mental illness, developmental disability, dual diagnosis, or acquired brain injury that are considered at high risk within the community and/or have frequent contact with the criminal justice system. The committee's tasks include definition of a high risk individual, referral criteria, and committee membership.

<http://www.hsjcc.on.ca/Uploads/Hamilton%20HSJCC%20Terms%20of%20Reference.pdf>

Niagara Detention Centre Mental Health Committee

The committee exists to plan, coordinate, develop, and implement resources for individuals with serious persistent mental health and/or developmental disabilities who are involved with the Niagara Detention Centre. Values, goals, ground rules, conflict resolution, membership and meeting information is contained in this document.

<http://www.hsjcc.on.ca/Uploads/NDC%20Mental%20Health%20Committee%20Terms%20of%20Reference.pdf>

Scarborough Hospital Police/Ambulance/Corrections/Hospital Liaison Committee

This committee provides a forum to discuss issues of mutual interest and concern for the Scarborough Hospital, Toronto Police Services (TPS) and Toronto Emergency Medical Service (EMS). Their responsibility is to provide input into Hospital initiatives that involve or impact on the TPS and EMS, identify processes that facilitate the meeting of joint goals of the Hospital, TPS, and EMS, and provide advice/assistance to resolve issues arising between the Hospital, TPS and EMS.

<http://www.hsjcc.on.ca/Uploads/Scarborough%20Hospital%20PAHLC%20Committee%20Terms%20of%20Reference.pdf>

Contact Information

To access the Provincial Human Services and Justice Coordinating Committee, visit:
<http://www.hsjcc.on.ca>

To access the Ministry of Community Safety and Correctional Services, visit:
<http://www.mcscs.jus.gov.on.ca>

To access the Ministry of Children and Youth Services, visit: <http://www.children.gov.on.ca>