

Court Monitored Mental Health Program –
Municipality of West Hants & County of Kings Pilot

Three Year Operational Report

“I just want to succeed in life and be somebody.”
-Graduate

Court Monitored Mental Health Program Working Group
12/22/2017

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INTRODUCTION

Purpose of the Report

This report will provide a review of the first three years of operation of the Court Monitored Mental Health Program (often entitled program through the report for brevity) from the first Court sitting May 20, 2014 to March 31, 2017.

The purpose of this three-year operational report is to provide an overview of the development and operations of the program as well as to speak to the goals of the program and summarize how it has been successful in achieving those goals.

We hope this report informs participants, stakeholders and the public as well as providing guidance for development of similar programs.

Report Highlights

- Pilot project for Municipality of West Hants and Kings County
- Community driven initiative
- Non- funded program leveraging resources to service clients we would be seeing in separate sectors without the efficiencies of a collaborative program
- Justice partners supporting the program with in-kind contributions - Court Services, NS Health Practitioners, Public Prosecution Service Crown Attorney, Nova Scotia Legal Aid Defence Counsel, Correctional Services Probation Officer
- Treatment program monitored by the Provincial Court of Nova Scotia
- Individualized treatment plans including utilization of existing health and community services
- As of March 31, 2017, 33 applicants were considered with 10 participating in the program (8 graduates, 1 withdrawal, 1 still active). There were 13 applicants deemed ineligible, 5 did not receive Crown consent and 5 withdrew their applications
- The nature of charges included assaults, property, and mischief or public disturbance offences.
- 5 of the 11 participants had previous criminal convictions and 2 participants incurred a new charge during the program. One graduate had a single charge following graduation. All new charges were minor offences.
- Total applicants gender split: Male: 20; Female: 13

Background and History

Historically, the experience of individuals living with serious and persistent mental illness(es) who interface with the law involved a response from our justice system that, for systemic and legislative reasons, functioned in isolation of our healthcare system. This intervention could involve criminal charges, which in turn might lead to convictions, sentencing and a criminal record, sometimes resulting in very negative outcomes for individuals and their families. Most significantly, traditional court processes do not include a mental health assessment, appropriate treatments and supports for an individual; other than rare assessments for criminal responsibility and fitness.

Representatives of the police, justice and health systems of Kings and Annapolis Counties had been coming together since 2007 to find ways to collaborate and coordinate services to improve our response to people living with mental illness and addictions, to achieve outcomes that promoted wellness, reduced recidivism and increased public safety. Initially, partnerships focused on our emergency response (police, emergency department, EHS and Mental Health and Addictions). In 2013, we turned our attention to the need for a Mental Health Court model. Simultaneously the Crown Attorney's office, NS Legal Aid defence attorney, court staff and the judiciary were also exploring the idea and expressed an interest in developing an alternative to traditional court.

These key stakeholders (*Provincial Court of Nova Scotia, Nova Scotia Public Prosecution Service, Nova Scotia Legal Aid, Community Corrections, Mental Health and Addictions (MHA) – Western and Central zones with Nova Scotia Health Authority*) came together to discuss how a court monitored program might be established to serve our rural communities in the absence of new funding. Our stakeholders' passion for better outcomes for individuals living with mental illness cemented an alliance for change, and fostered a commitment from partners to collaborate through creative use of existing resources. The Court Monitored Mental Health Program launched in May 2014.

Program Description

The Kings and West Hants Court Monitored Mental Health Program is a voluntary offender-based program for adults (persons 18 years of age and older) who have been charged with a criminal offence which is connected to their mental illness and are competent to participate in the criminal justice system. This program is being delivered to benefit the participants, concerned stakeholders and the public in Kings County and the Municipality of West Hants.

This program is founded on partnerships between the Provincial Court of Nova Scotia, Nova Scotia Public Prosecution Service, Nova Scotia Legal Aid, Community Corrections, Mental Health and Addictions– Western & Central Zones (Kings & West Hants only) of the Nova Scotia Health Authority. The program falls under the auspices of the Provincial Court of Nova Scotia and Section 720(2) of the *Criminal Code of Canada* which states:

“The court may, with the consent of the Attorney General and the offender and after considering the interests of justice and of any victim of the offence, delay sentencing to enable the offender to attend a treatment program approved by the province under the supervision of the court, such as an addiction treatment program or a domestic violence counseling program.”

For the purpose of the program "mental illness" is defined as a recognized serious and persistent mental illness such as schizophrenia, bipolar disorder, and other psychosis. The program will consider major depression as well as other concurrent mental health and substance use disorders where the mental illness is the primary concern.

The program consists of four phases. Each phase requires the participant to attend court and to comply with court orders. Once admitted, the final two phases require participants to develop and follow a treatment plan.

- Appearance Phase
- Screening Phase
- Support Plan Development Phase
- Program Phase

Appearance Phase

A candidate may be identified as a potential participant for the program upon their first appearance in court (arraignment) or at a subsequent appearance. Identification of a candidate can originate from many sources including, but not limited to, the accused themselves, the accused family, the Crown Attorney, Defence Counsel, Sheriff Services, Police Agencies, Community Corrections, service providers, and health professionals.

Referral

The identification of a candidate for the Court Monitored Mental Health Program is communicated to the Judge presiding in the 'originating' court through the Crown Attorney or Defence Counsel.

Charges can be transferred to the program during the early stages of a proceeding for a screening assessment to determine eligibility. If the candidate has been identified as having a mental illness or presents as exhibiting signs of a mental illness and is prepared to accept responsibility for their action(s) or omission(s) the referral continues.

The candidate is given a court date before the Court Monitored Mental Health Program and an informational brochure about the program.

Initial Application

Before the Court Monitored Mental Health Program court date, the candidate has an opportunity to meet with a defence lawyer to obtain additional information on the requirements for participation in the program. This includes but is not limited to, the voluntary component of the program, the necessity of consent forms and releases to allow the Court Monitored Mental Health Program access to criminal and medical records, and the screening to determine eligibility. The candidate also completes an application and questionnaire with their lawyer for eligibility consideration purposes.

The Crown Attorney does a preliminary review of the matter to determine if the candidate meets the fundamental eligibility criteria for participation in the program, and communicates this to the defence lawyer. Pursuant to section 720 (2) of the *Criminal Code*, the Crown Attorney must consent to an individual's participation in the program or the matter will be returned to the originating court. The role of the Crown includes considering public safety and risk management issues when reviewing potential applicants.

Information Sharing

The program requires that all relevant information about candidates be collected and shared throughout the entire court process.

Information is shared in a way that strives to protect participants' confidentiality rights as clients of the mental health system, their constitutional rights as accused persons, and solicitor/client privilege. Potentially, third party court applications, such as from the Department of Community Services in child protection cases, could lead to disclosure of information or records from the program.

To comply with confidentiality requirements, the program ensures that participants provide their informed, written consent to release information.

Screening Phase

The candidate meets with the mental health clinician(s) to complete the eligibility screen. This screen serves as a tool for considering eligibility for participation in the Court Monitored Mental Health Program. Eligibility is based on determining a connection between an individual's mental status at the time of the alleged crime. Clinicians gather information from the individual, Crown Attorney and any other collateral sources (family, health professionals, defence lawyer etc.) to determine if a connection is present.

If the candidate is considered eligible for the program they appear in the court, at which time, the Judge asks if the candidate is agreeing to voluntarily participate in the program. It is at this stage that the candidate is invited to become a participant in the program, and completes the Consent and Waiver for the program with their defence lawyer. Consent must be informed and voluntary. Once the candidate is accepted into the program, they become a participant.

If the program team finds that the candidate does not meet eligibility criteria, the candidate decides they do not want to enter the program, or the Crown Attorney does not consent to admission of a candidate; the matter is adjourned to the originating court. They may or may not decide to continue with mental health services as a matter of personal choice.

Support Plan Development Phase

Support plans are holistic, recovery-based, and client-focused. This may include a wide variety of areas including, but not limited to: medication, psychotherapy, employment, volunteer work and strengthening supportive family and friend relationships.

During this phase, the participant meets with a mental health clinician for further assessment and development of a support plan. This plan will be individualized to meet the needs of the participant. This plan may include mental health appointments or treatment groups, and other health or community resources.

Program Phase

The support plan is implemented and participant follow-up appointments are made with a mental health clinician, as well as other services. The support plan is regularly monitored and can evolve to support the participant's recovery. The participant is accountable for fully engaging in their support plan. Failure to do so may result in a sanction or removal from the program.

Frequency

A participant is required to attend court every two weeks, and to frequently meet with mental health clinicians and other service providers.

The frequency of court appearances and required treatment appointments may fluctuate depending on the complexity of the support plan, the participant's progress, and scheduling issues.

Outstanding and Subsequent Charges

There is no limit to the number of charges that will be dealt with for any given participant, subject to an overriding public safety concern that may be raised by the Crown Attorney.

Any offences committed by a participant while they are involved in the program will not automatically lead to expulsion from the program. All new charges are reviewed on a case by case basis. A participant may be sanctioned or removed from the program; or the charge may be added to the matters being dealt with in the program.

Release Conditions

Release conditions, as applicable, will not disclose details of the support plan but may contain other conditions of release that in the event of a breach, will be dealt with by the police. However, where possible, any additional charges may be transferred to the program if they meet the eligibility criteria and the participant consents.

Successful Completion Outcomes

When a participant successfully completes the program, the following outcomes may apply:

- Crown Attorney withdrawing the charge or charges completely
- Absolute or Conditional Discharge
- Probation
- Conditional Sentence Order

GOALS OF THE COURT MONITORED MENTAL HEALTH PROGRAM

Increasing Public Safety

Goal: Enhance Public Safety by reducing the involvement of persons with mental illnesses in the criminal justice system.

In the first three years of operation, just under half of the participants in the Court Monitored Mental Health Program had a history of coming into conflict with the law and many had been before the traditional criminal courts on multiple occasions. This “revolving door” of defendants with mental illness(es) is a common and frustrating event in the criminal justice system without traditional rehabilitation measures having any appreciable effect on their ability to live in communities without further offences. More importantly, the quality of life for defendants who come into conflict with the law is very poor, given that their appearance in the criminal justice system occurs when almost all other social safety nets have simply been unable to meet their needs or an individual has declined all services and is ineligible for compulsory services under the *Involuntary Psychiatric Treatment Act*.

It must be understood that the traditional criminal justice system is ill-equipped to manage offending behaviours, which have roots in complex mental illness as well as disadvantaged socioeconomic factors. Our participant numbers are too low in only three years of operation to provide statistical analysis without risk of breaching confidentiality. We can advise that only two participants had a new, albeit minor, offence during their participation in the program. During the period of this report, only one graduate has been charged with a subsequent (minor) criminal offence.

The Court Monitored Mental Health Program includes pre-court conferencing by the program team before every court appearance to review progress and adjust treatment plans as necessary followed by participant attendance at court every two weeks. The program team uses a multi-disciplinary approach with regular health, community and other supportive interventions between court appearances through a treatment plan which is developed by participants in consultation with clinicians and the program team.

We welcome supportive family members at court appearances and their involvement in participants’ wellness. This multi-phased and participant-focused approach usually over 12 – 18 months has been key to assisting participants in developing family, community and occupational/educational attachments, which are the strongest long term determinants of successful community living, free from conflict with the law. Some participants completed their treatment plan in under 12 months and graduated early.

Improving Participant Health Outcomes

Goal: Improve the mental health and quality of life of persons with mental illnesses

Persons who would have had no option but to be involved in the criminal justice system now have a choice as well as access to improved mental health rather than a punitive approach which can cause further mental health decompensation. Once individuals became participants of the program, a treatment plan was developed in collaboration between the participant and program mental health clinicians. Individual treatment plans were developed with the community in mind and engaged participants' in services. Treatment plans may include individual and group therapy using evidence based practices (i.e. Cognitive Behavioral Therapy, Dialectal Behavioral Therapy) within NSHA Mental Health and Addictions as well as connecting with community resources and groups. Community resources allowed for experiential learning (i.e. cooking, community garden, soup kitchen, youth outreach), socialization and recreational opportunities (i.e. art program, basketball).

The individual treatment plan is created in part by use of the Camberwell Assessment of Need (CAN). This assessment covers twenty-two (22) separate health, psychological, clinical, functional and social areas of life that individuals with mental illness(es) may struggle with. It captures the perception of both the individual along with the service provider or caregiver within the preceding month. The CAN is used in addition to interviewing the client and ascertaining what goals they have for treatment and in their personal lives.

Once the individual treatment plan is completed, mental health clinicians aide in facilitating services outlined in the plan. This may include working on medication adherence strategies, connecting with psychiatry, and psychosocial rehabilitation groups to support wellness. Clinicians also oversee assessments, liaise with doctors, social workers, psychologists and other health care professionals to help monitor the treatment progress.

During the program phase, incentives such as gift cards to Tim Horton's and local restaurants were given for adhering to treatment plans and working towards individual recovery. These incentives encouraged individuals to interact more with their community.

Should individuals not be invited into the program, they are still connected with mental health services and can choose to stay engaged. This is not monitored by the Program but is simply part of accessing health services.

Participant Survey Responses:

Participant surveys were given to graduates. Eight participants completed the program within this report's timeline. There was one participant who withdrew. There were no dismissals by the program team.

The purpose of the information collected was to inform how the participants experienced their interactions with the program team, court sittings and what benefits they attributed to the program. From this information, we may consider changes or confirm that we are providing service that meet participant needs while in line with the goals of the program. We also gathered demographic data including gender, age and education level to get a better sense of our served population.

Overall, participants were satisfied with the quality of service provided. When asked about program delivery (i.e. felt respected, satisfied with support) participants agreed or strongly agreed. Participants also noted positive changes that they attributed to the program, including:

- "I am sleeping much better."
- "My thinking is better than it used to be."
- "I am encouraged to continue with my mental health treatment."
- "I have better control of my drinking and/or drug use."
- "I am able to control my anger much better now."
- "I have a positive relationship with my family and friends."
- "I do not do activities that get me in trouble with the law."
- "I am connected with services I need in the community (e.g. housing, employment, education, etc.)."

Utilizing Existing Community Supports

Goal: Improve health outcomes and quality of life of persons living with mental illnesses by increasing their capacity to successfully live in the community.

Evidence based treatments were offered for a sufficient period to engage and help improve participants' success. When a participant actively engages in treatment the better the outcome or success in treatment, community rehabilitation and integration. The program allows time and linkages for participants to find their way back to the recovery process. The time it takes may look different for each individual.

The program facilitates access to mental health services. Mental health clinicians working in the program are based out of existing community mental health teams. A potential candidate obtains an appointment for an eligibility screen with a program mental health clinician. This first point of access can lead to follow up with mental health clinicians and connecting to other resources that exist within their community.

Mental health clinicians have knowledge about and collaborate with existing resources within the community of Kings and West Hants. They are able to create awareness and help connect participants with relevant community partners. If a participant identifies an interest in continuing education or finding work through their treatment plan, they may be linked with organizations such as People Worx, Canadian Mental Health Association (CMHA), Adult High School, Valley Community Learning Association (VCLA) etc. If a participant expresses interest in volunteering, they may be connected with organizations such as the Society for the Prevention of Cruelty to Animals (SPCA), and the Kings Volunteer Resource Centre, to name a few.

In addition to facilitating connections with existing resources, mental health clinicians play a role in program specific tasks. They meet with potential candidates to complete an eligibility screen, review program expectations, obtain consent and complete release of information forms. They also develop an individualized treatment plan in collaboration with the participant. They regularly meet with participants and/or attached clinicians, complete progress reports for the program team, and advocate on behalf of the participant at pre-court meetings. Support is provided for the participant at court appearances, as well as through ongoing case management.

Community/stakeholder education is a key element to the work of the court monitored treatment program. Program clinicians, along with the pre-court team, work to educate the public and service providers to promote this program, thereby increasing awareness and community partner support.

Cost-Effective Collaboration

As noted in the three previous sections above, the collaboration of key stakeholders including the Provincial Court of Nova Scotia, the Nova Scotia Public Prosecution Service, Nova Scotia Legal Aid, Community Corrections, Mental Health and Addictions (MHA) – Western and Central zones with Nova Scotia Health Authority has resulted in a much more effective and efficient model of service delivery with no added funding except the in-kind contributions and commitment of each stakeholder.

The court monitored treatment program model provides for a more holistic approach to treating mental illness and reducing recidivism than the traditional court process. The collaborative efforts of the pre-court team maximize the positive effects for the participants, their families and the communities in which they reside.

Prior to this program, a person with mental illness who committed offences could cycle in and out of the criminal justice system without fundamental changes in their wellness and community integration. This left them prone to reoffending time and again. Community mental health services are voluntary in the clear majority of cases and without the supervision provided through court monitoring, many individuals would decline service or undertake participation in mental health services in such a haphazard way that long term gains were rarely realized.

It is difficult to quantify in dollar figures how cost-effective the program has been in the short time frame of the first three years of operation. Suffice to say that the experience of our participants and stakeholders strongly suggests that appreciable gains were made in increasing public safety, improving health outcomes, and more consistently utilizing community supports through working together than had previously been achieved working in our separate sectors.

Reaching out to like-minded charitable organizations for grant money to assist program participants is a cost-effective measure for the program as well. A successful grant application to the Mental Health Foundation of Nova Scotia has allowed the program to support West Hants participants travel requirements to and from appointments and for court attendance.

CHALLENGES AND LESSONS LEARNED

Working Group members were asked to reflect on the first three years of operation and respond to three questions. Six active working group members, including the writers of this report, responded to the following questions:

What Has Been Challenging?

The Court Monitored Mental Health Program faced many challenges during its first three years of operation. The first meetings as a working group required significant sharing of organizational paradigms, language, practices, and developing a shared practical path forward which was respectful of unique roles and responsibilities. For example, the privacy management requirements were different for each partner's organization therefore requiring adjustments to the communication between partners.

Coming to an agreement regarding shared program documentation and finding ways to update such documentation continues to be a challenge. Ongoing dedication to this work by the program team has been needed, particularly since the program is without any full time dedicated resources. Moving away from an adversarial court system model to collaborative case management was challenging for the criminal justice system working group members.

Rural Nova Scotia does not have the population base to support all types of clinical supports. We worked hard to creatively assess and use appropriate services and supports to develop meaningfully impactful treatment plans for each participant. Not all applicants came to the program with a current diagnosis which led to delays in assessing eligibility. We have continued to develop options for more timely diagnostics. Lack of accessibility to public transportation was a significant barrier. It often prevented potential participation in the program.

Our early days meant operating the program and learning together, while assisting participants, who were often our greatest source of inspiration for the path forward. Expanding eligibility criteria is often under consideration when a compelling case is presented, which does not meet current eligibility criteria. We have considered piloting a potential candidate that does not meet current criteria, from which we can determine whether the program and community resources are sufficiently robust for more long-term eligibility expansion.

What Is Working Well?

It is clear that the program addresses an important need in the community. There is a common goal of individual mental health, which strengthens our communities, that is supported by a multi-disciplinary team and the Provincial Court of Nova Scotia. Participants face a greater level of accountability during their program participation and gain connections with mental health services to which they might not otherwise have had access. Team members have witnessed real growth with past and current participants. Much of this success lies with the team approach taken during program development and the commitment from working group and pre-court team members to commit priority time and energy to the program implementation. Any work accomplished has been completed in addition to the team members' primary work responsibilities and without any formal source of funding. Well defined processes have ensured consistency in approach and application.

The program model utilizes support and resource sharing to accomplish goals. Setting out the program goals clearly, taking the time to learn and share knowledge about mental health issues has only increased the benefits and outcomes for participants. It has also created a respectful and supportive understanding of the various professions represented around the table.

What Do We Need To Modify?

In delivering the program over the past three years, we have identified some areas that require attention. During the course of the program implementation there has been a lot of change among the partnering health organization (NSHA) including a complete reorganization from separate health authorities to a single Nova Scotia Health Authority with separate zones. This included managerial position changes and with that a varying degree of attention and support. Consistent leadership from the health authority would facilitate implementation and maintain confidence at the front-line level that we have the needed support from the health authority. This would include travel time being allotted for clinicians from West Hants to attend pre-court and court sittings as a part of the team approach.

Within the parameters of the program itself, we noted that the eligibility criteria need some refining. We were aware that the eligibility criteria during the pilot phase were narrow. This allowed us to start the program without an overwhelming amount of applications and to learn to work effectively together with lower risk cases. There was

also some confusion around what diagnosis we were accepting to screen for a nexus. This is still under consideration as we are looking at expanding and reviewing what mental health services are available to provide the treatment portion of the program. We are also considering including applicants who reside elsewhere or have charges elsewhere but have a strong link to Kings or West Hants Counties (i.e. treatment providers, school).

Documentation has also been identified as an area for attention. It has been in draft form since our inception. While that allowed for flexibility it has also been a point of uncertainty. Additional documentation including the program overview and treatment components available through NSHA would be helpful. Additionally, what documentation we do have may not be used to its full potential. We have documentation outlining incentives and sanctions. The use of incentives and sanctions has sometimes not been utilized creatively to best respond to individual participants.

Court proceedings could also run smoother. The start time has been delayed due to various factors and other court proceedings. This results in wasted time of the program team and participants. Another draw on time is the process for individuals awaiting formal criminal responsibility and fitness assessments under section 672 of the *Criminal Code*. Individuals have to wait for an appointment to conduct the assessment and then the program must wait for the results of the assessment. A process to share information between the program and East Coast Forensic Hospital would reduce wait time for all parties involved. In addition to the wait, questions arise around what should an applicant be doing in this time period of awaiting assessment results while not formally part of the program (i.e. attend court sittings).

Finally, we are looking at renewing efforts for community outreach. We have presented numerous times to local community stakeholders, however positions are changed and filled with new individuals. Where this program is still in its early years, we are looking to expand the communities' knowledge and uptake of the idea of treatment courts.

CONCLUDING COMMENTS

The completion of this report was one of the most challenging tasks without a dedicated resource. The team of authors were also the primary operational team of the program. Some of the identified future directions were achieved in the time it took to finalize this report, and will be noted as such. We are currently reviewing the operational treatment model and eligibility criteria to consider more flexible access to the program since there is capacity for more participants. This process has and will include test cases to determine the feasibility of expanding the program.

We realized by the end of our second year that the time allotted for defence counsel to meet with clients to debrief them after case conferences was insufficient and caused court delays. We moved to a half day format which greatly improved defence counsel consultation time before the formal court appearances. Since court time is valuable, a regular review of Provincial Court scheduling related to this program is conducted. The need to balance the time required for this specialty court while integrating it into the traditional court schedules is critical for the overall efficient operation of the courts.

The Working Group recognizes that regular education in the community as well as across criminal justice system partners is vital to maintaining awareness of the program. Team members have undertaken to present and attend a number of seminars and information sessions which continues to be a priority of the working group.

Transportation for Municipality of West Hants participants has been very challenging. Following multiple applications to the NS Mental Health Foundation, the program succeeded in receiving a small, but very valuable grant to facilitate transportation requirements for participants. This greatly enhanced participation from West Hants.

Once the program has higher rates of graduates for statistically meaningful analysis, consideration will be given to longitudinal analysis of continued connection to mental health and community services as well as rates of reoffending.

Determining more robust outcome measures in line with the social determinants of health, is an aspirational goal, along with a more formal structured evaluation of the program. These may be unattainable without dedicated resources or funded outsourcing. Exploring university student work placements or graduate students from NS universities studying in the social sciences fields may be an option worth considering. Seeking out additional sources of funding or engaging government resources for such a purpose could also be explored.

ACKNOWLEDGEMENTS

The Court Monitored Mental Health Program Working Group wishes to acknowledge individual team members and their organizations for the commitment made to ensure the successful launch and continued operation of the program for Kings and West Hants.

The program would not exist without the support and commitment of the Provincial Court of Nova Scotia and Associate Chief Judge of the Provincial Court, Alan Tufts, for his recognition of the need for services to individuals with mental health issues before the traditional courts. Court time is valuable and making time for the program is a clear statement of importance.

The team would also like to acknowledge Chief Judge of the Provincial Court of NS, Pamela Williams, and the Dartmouth Mental Health Court for their support, expertise and sharing of resources, precedents and operational experience. This allowed the team to modify that model to meet the needs of a rural population base, in conjunction with available services and stakeholders.

A tremendous thank you is extended to the participants themselves who have demonstrated the hard work that is required for a successful outcome to their involvement. We would further like to recognize the support provided friends and family which has been demonstrated to be an important component of participant success.

REFERENCES

- Dartmouth Mental Health Court Program Model and documents
- Court Monitored Mental Health Program Draft Documents Binder
- Court Monitored Drug Treatment Program Operational Report October 30, 2015
- Camberwell Assessment (short version)