



## Mental health and the criminal justice system

There are many people in prison in NSW who have some form of mental illness. This fact sheet examines why people with a mental illness are sent to prison and the problems that arise from the incarceration of those who have mental health issues.

### What is a Mental Illness?

The term 'mental illness' is very broad. It covers a diverse range of health conditions relating to somebody's psychological state. Depression and schizophrenia are some of the better known examples of mental illness. It is useful to note that the definition of mental illness is fluid. It has changed frequently over time and is influenced by various social and cultural trends. Some behaviours that would have been diagnosed as mental illness a decade ago would not necessarily be diagnosed in the same way today.

### Mental Health and the Prison Population

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

In New South Wales, more than 50% of women in prison, and 30% of men in prison have had contact with a mental health service in the twelve months prior to their incarceration.

In the women's prisons-

- 39% of female prisoners have attempted suicide,
- 23% are on psychiatric medication and

- 73% have been admitted to psychiatric or mental health units (SCIPP, interim report, 2000:16).

In the men's prisons;

- 21% of male prisoners have attempted suicide
- 12% have been diagnosed with a psychiatric disorder
- 33% have been treated or assessed for emotional and psychological problems (SCIPP, final report, 2001:25)

Current statistics from Corrections Health Service for 2002 show that about 85% of inmates received into NSW correctional centres and 70% of sentenced inmates have had a psychotic, mood, anxiety, substance use or personality disorder or combinations of these disorders in the past year.

### Why are there so many people in prison with a mental illness?

There are a number of possible reasons why this trend has developed.

The progressive closure of large psychiatric institutions, in NSW, over the years, while a welcomed initiative, was not followed by a corresponding rise in resources, funding and support services to assist people with a mental illness to maintain their lives within the community. This has resulted in an increasing risk of homelessness amongst people with



### Beyond bars: alternatives to custody

NSW Council of Social Service \* Conference of Leaders of Religious Institutes (NSW) \* Catholics in Coalition for Justice and Peace \* Guthrie House \* NSW MRC Forum \* CRC Justice Support \* Shopfront Youth Legal Centre \* Youth Justice Coalition \* Justice Action \* ACTCOSS \* Hepatitis C Council of NSW \* Indigenous Social Justice Association \* NSW Council for Civil Liberties \* Youth Action & Policy Association \* Intellectual Disability Rights Service \* Prison Reform Council \* No New Women's Prison Campaign \* Blackheath Area Neighbourhood Centre \* Men's Health & Wellbeing Association (NSW) \* JewishCare \* Eileen Baldry (UNSW) \* Russell Hogg (UWS) \* Chris Cunneen (USYD) \* Julie Stubbs (USYD) \* Ann Symonds \* Tony Trimmingham (Family Drug Support) \* Tim Anderson \* Cleonie Quayle \* Melinda Smith

mental health issues and this puts people both at risk of offending behaviour, and at risk of coming under more intense police surveillance. High levels of unemployment and poverty exacerbate these issues.

One of the most enduring myths about mental illness is that it causes people to be dangerous and violent. This is not true. People with a mental illness are more commonly the victims of violent crime. Many people with a mental illness who are defendants or offenders in custody are charged with summary offences or relatively minor crimes.

Of the total prison population, 60% of female and 44% of male non-violent offenders in NSW prisons have been identified with a mental disorder, including psychosis, anxiety and affective disorders (Corrections Health Service, 2002). The crimes they are in prison for include matters such as fraud, property, driving, and public order charges.

In many cases when such people appear before the courts the magistrate or judge has very limited options. Sometimes prison is the safest option, and sometimes it is the only option. There is no alternative system to address the needs of people suffering from mental illness who have committed crime.

The public mental health system is so stretched in terms of its own resources, that it can be reluctant to take on the complicated issues of a mentally ill person arrested for criminal behaviour. This can lead to situations whereby a judge recommends that the person with a mental illness be treated by a health service, only to find the same person appearing the following week, having been denied the relevant treatment.

Inadequate government funding of community-based health services and the absence of designated facilities within the justice system

for people with mental illness are some of the main factors contributing to the high levels of imprisonment of people with a mental illness.

### **What is the problem with putting people with a mental illness in prison?**

Prison is frequently a harsh and dehumanising system. This kind of environment can be a very dangerous and terrifying place for inmates suffering from a mental illness. It is not uncommon for people with mental illnesses to be the victims of violence within the prison system, and the levels of suicide and self harm attempts are extremely high.

Many prisoners are reluctant to report their mental illness to the prison authorities for fear that this disclosure might leave them vulnerable to abuse and exploitation by other prisoners, or because they do not want to end up in a 'dry' cell.

'Dry' cells are designed to prevent people from committing suicide. They are under 24 hour surveillance by prison officers, are extremely sparse and are likened to some prisoners to being on 'segro' (segregation). Many prisoners see dry cells as being like punishment cells, and do not view these as conducive to improving the state of their mental health. Also, where the person is experiencing an episode of mental illness the dry cell is likely to exacerbate the illness and result in further trauma for the prisoner.

The trauma of prison life may result in the worsening of a mental illness. In many ways the prison environment is the opposite of the therapeutic environment, which would be ideal for working with people to try and alleviate mental health problems. Those who are incarcerated with a mental illness have to try and manage without any of their usual support



#### **Beyond bars: alternatives to custody**

email: [beyond\\_bars@yahoo.com](mailto:beyond_bars@yahoo.com)

web: [www.ncoss.org.au/beyond\\_bars](http://www.ncoss.org.au/beyond_bars)

media enquiries: c/- Alan Kirkland, 0418 620094

systems in place, in an extremely difficult physical environment (even for people who have never had any psychological problems).

There are many people in prison with a mental illness who also have a problematic relationship with drugs and alcohol. Trying to manage both of these problems in the context of a dehumanising and sometimes brutal prison environment can be extremely stressful.

While there are forensic hospitals for people with a mental illness who have committed a crime, these are situated within the prison system. NSW is the only state in Australia and one of only a few in the Western world that hospitalises forensic patients within the precincts of a correctional facility and under the authority of Corrective Services staff.

### **How could prison be made safer for people with a mental illness?**

While prison is not the answer, the prison system could introduce a more effective reception-screening program to detect if a person has a mental health issue. Having such a program could help with early detection rates and therefore inmates could receive adequate treatment when they first enter an institution. Each prison should have a psychiatric unit to treat the general prison population. This unit should provide 24-hour care and be staffed with a team of professionals who can provide medical and psychological interventions. For those inmates who have chronic psychotic disorders, medium term stays in such units could be a possibility until the prisoner is ready to join the main prison population.

### **What are the alternatives to prison for people with a mental illness?**

Clearly however, prison is not an appropriate place for people with a mental illness. One alternative option is the use of a court diversion

system, where people with a mental illness are diverted from the criminal justice system to secure community based hospital and community mental health facilities. This would allow the individual immediate access to appropriate treatment and support. It would also help to reduce the current overload on the court system. Furthermore it may also have the benefit of reducing the re-arrest or re-conviction rates as people would be accessing treatment. This diversion process could allow the court to closely monitor the person's progress. If the individual failed to meet the requirements of the program they could be required to appear before the court and only then, could a custodial sentence be imposed.

The prison system in NSW has been described by many as becoming like a surrogate mental hospital. Since the closure of most of the large psychiatric institutions, and the lack of a corresponding increase in resources, funding and support services within the community, there has been a steady drift of people with mental illness into NSW prisons.

To stop this trend, there is a need for a greater budgetary commitment on the part of the NSW state government to the needs of people with a mental illness who are living in the community, particularly those who are at risk of homelessness.

### **References**

- Fowler,G, (2001), "Victims of Law" The Manly Daily 16th Mar,P1
- Greenberg,D (2002) 'Mental Health and the Criminal Justice System' ,paper presented at a Public Seminar, Institute of Criminology, University of Sydney, September.
- Walker,F (2002) 'Mental Health and the Criminal Justice System',paper presented at a public seminar.Institute of Criminology,University of Sydney,September.
- Select Committee Inquiry into the Increase in the NSW Prisoner Population (2001) Final Report, NSW Government, Sydney
- Select Committee Inquiry into Mental Health Service in NSW, (2002) Final Report, NSW Government, Sydney
- Radioeye [www.abc.net.au/rn/arts/radioeye/crime](http://www.abc.net.au/rn/arts/radioeye/crime)



**Beyond bars: alternatives to custody**

email: [beyond\\_bars@yahoo.com](mailto:beyond_bars@yahoo.com)

web: [www.ncoss.org.au/beyond\\_bars](http://www.ncoss.org.au/beyond_bars)

media enquiries: c/- Alan Kirkland, 0418 620094