



THE CRIMINAL JUSTICE SYSTEM AND DEAF, HARD OF HEARING CLIENTS

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Presentation to
WBT Conference
Vancouver Coastal Health

Outline (1)

- Some background
- Canadian Justice system
- The Charter (section 15)
- Provincial disability laws
- Mental health issues – fitness to stand trial, NCR-involuntary commitment Review Boards
- Roles – police, lawyers, Crown, Judges, Corrections Officers, Parole, Probation Officers

Outline (2)

- Arrest, Charges, Sentencing
- The professionals - psychiatrists, psychologists, counsellors, Deaf agency workers, others -
- Mental Disorders – Corrections vs. Forensic Health facilities
- Corrections rehabilitation and programming
- Special needs groups - Aboriginal, Cultural and linguistic (Sign Language) minorities, multiple disability

Outline (3)

- INTERPRETER ISSUES
- PROFESSIONAL ASSESSMENT ISSUES
- DEAF COMMUNITY ISSUES
- TRAINING ISSUES
- UNRESOLVED ISSUES
- NEED FOR RESEARCH
- INCREASED GENERAL AWARENESS

Some background

- Canadian Criminal Justice system
- Provincial courts
- Appeal Courts
- Supreme Court
- Federal Court
- Civil and Charter cases

Laws

- Criminal Code –federal statute
- The Charter (section 15) – equality provision
- The Charter (section 14) – mandates Sign Language
- Provincial disability laws (BC, Ontario)
- Health and Mental Health
- Canada Health Act

Mental Health

- Mental health issues
- Fitness to stand trial,
- NCR – Not Criminally Responsible
- Involuntary commitment
- Review Boards

Roles

- Police,
- Lawyers,
- Crown,
- Judges,
- Corrections Officers,
- Parole, Probation Officers
- Family, friends
- Deaf community
- Agencies

The Justice Process

- Arrest,
- Charges,
- Sentencing
- Incarceration – provincial 2yrs - 1 day; federal 2 years+
- Corrections (Jail) or forensic hospital
- Rehabilitation, programming?
- Release
- Probation
- Parole board

Professionals

- Medical – various specialties
- Psychiatrists- general, forensic
- Allied Health,
- Psychologists,
- Counsellors,
- Deaf Agency workers,
- Others –
- Volunteers
- INTERPRETERS –HEARING AND DEAF

Mental Disorders

- Mental Disorders –
- Definitions –medical-legal
- DSM V
- ICD-10 – International classification of Diseases
- Other classification systems - categorical
- Major mental disorders
- Mood disorders, anxiety
- Personality disorders
- Sexual disorders

Rehabilitation and programs

- Corrections
- Forensic Health facilities
- Corrections rehabilitation
- Programming
- Individual vs. group
- Issues

Special needs

- Aboriginal,
- Cultural Minorities
- Newly arrived immigrants
- Linguistic (Sign Language) minorities,
- “Non-standard” Sign Language
- Language deprivation
- “Home Sign”
- Multiple disability – developmental disability
- Other challenges

Interpreter Issues

- Discussed in more detail in **Sept 21** workshop
- Issues arise at every stage in the process
- Arcane and complex legal terminology
- Specific issues in Mental Disorder assessments
- Interpreter as informant
- Boundary issues
- Role of the Deaf Interpreter - pros and cons
- Ethical issues – what to do when you know the assessment is flawed

PROFESSIONALS - ASSESSMENT

- Qualifications?
- Psychiatry is key professional – has the most power
- Fitness can only be determined by a medical professional – normally psychiatrist
- Unfit to stand trial –definition:

Fit to stand trial

- “A court may find you Unfit if you are unable to participate in the defence of charges against you **because of a mental disorder or illness**. The court will examine whether you **understand** the nature of the trial (who are the people involved, what is the process), whether you understand the possible consequences (what could happen at the end of the trial) and whether you can communicate effectively with your lawyer. “
- You are **presumed fit** to stand trial unless proven otherwise. “

Unfit to stand trial on account of a mental disorder

- General knowledge
- The roles of the players
- The oath
- Right from wrong
- Communication with counsel
- Full answer and defence
- What is the legal definition of mental disorder?
- **Mental disorder alone does not make you unfit**

Fitness Issues for Deaf persons in Forensic settings

- “Coaching” to fitness by people who do not understand realities of deafness
- False compliance
- Self – fulfilling prophecy
- Medication and over medication
- Often no interpreters for important “on the ward” assessments
- Social interaction with other inmates – the good and the bad
- Mainly a very bad place for a deaf person

TRAINING ISSUES

- Professional training within the entire Justice system is lacking
- There have been some excellent initiatives, but they are rarely sustainable due to lack of resources and funding
- Training for psychiatrists and psychologists is a priority – both in medical school and later for continuing education
- Training in how to work with interpreters is a priority –not superficial – in depth
- Professional Colleges need to become involved

Deaf community

- Needs to become more engaged
- Understandable reluctance to be associated with criminals – people in jail
- Historical stigma needs to be overcome
- Need for better education of Deaf people about justice system in general
- **Need more Deaf people to enter the field as interpreters and as professionals**
- Need more professionals with diverse backgrounds to enter the field e.g., Aboriginal, multi-cultural

UNRESOLVED ISSUES

- NEED FOR RESEARCH – corrections, forensic, mental health
- Demographics - statistics sadly lacking in both provincial and federal systems
- Needs analysis – unmet needs, gaps, barriers in all areas
- Need a survey of forensic health professionals and legal professionals for knowledge of realities of Deaf people
- We need a **concrete national strategy** for moving ahead - has to involve **grass roots professionals** and the **Deaf community**

INCREASED GENERAL AWARENESS

- Media awareness of special needs of deaf people in the Justice system
- Not looking for sympathy or Deafness as an excuse – **just fair treatment!**
- Very difficult when a Deaf person is accused of a serious crime – murder, assault, sexual assault, pedophilia. Easy to turn away.
- In general we need more attention to this **most neglected** aspect of the field of deafness
- **Mental Health Issues in the Justice System**

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A personal note

*Jamie and his Mom (Gladys)
and Dad(Peter)*

Circa 1970





THANK YOU