

Department of Justice and Community Safety Statement

The Department of Justice and Community Safety (DJCS) is grateful for the opportunity to set out its policy position on the treatment of adults and youth with mental health issues in the justice system.

Unfortunately, we are not able to attend today due to ongoing work across the department as part of the response to COVID-19. However, we are engaged with the Royal Commission through a number of fora and look forward to participating in future public discussions.

We are also grateful to have a chance to contribute to this pivotal inquiry by supporting the Royal Commission's efforts to identify new and better ways to improve the lives of adults and young people with mental illness. This includes some of the most complex and vulnerable cohorts whose experience of mental illness and other issues leads them into contact with the justice system.

What follows is an overview of key points that previews some key themes that have been addressed in detail in the witness statements of Peta McCammon, the Associate Secretary, DJCS, and Dr Emma Cassar, the Commissioner for Corrections.

Overrepresentation of people with mental illness in the justice system

- Capacity constraints in mental health and other community services create barriers to accessing supports that might divert a person from initial or escalating contact with the justice system.
- A lack of treatment options in the community can lead to a person receiving a custodial sentence, as the court may not consider that person will receive appropriate treatment in the community.
- For some Victorians, the correctional, youth justice and forensic mental health systems have therefore become mental health treatment providers of last resort.

Addressing overrepresentation of people with mental health needs

- Key opportunities to improve this range from better ways of supporting encounters between police officers and people experiencing a mental illness to earlier intervention to address the complex mental health and related needs of individuals at risk of offending.
- Therapeutic court interventions are also an important mechanism for diverting offenders or providing alternative sentences to imprisonment for those with complex needs and mental health issues. This includes the Assessment and Referral Court List (ARC List) for intensive and pre-sentence support; the Court Integrated Services Program (CISP), which links accused persons to supports; and the Koori Court, which ensures sentencing orders are appropriate to the cultural, and mental health, needs of certain Koori offenders.
- As highlighted by the Interim Report of the Royal Commission, the lack of adequate secure forensic mental health capacity for adults and young people subject to custodial treatment orders causes some people who require specialist treatment in a mental health facility to instead be held in prison or youth justice custody.

Support for people living with mental illness in contact with the justice system

- Almost half of all adult offenders on community orders have a Mental Health Treatment and Rehabilitation condition, which specifies that an offender must seek treatment for their mental health. These orders are an opportunity to engage an offender with mental health treatment, intervene to prevent escalation of behaviour and prevent incarceration.
- All prisoners entering the corrections custodial system have a comprehensive health and mental health assessment upon reception and can access primary mental health services on demand, and access specialist mental health services as clinically required.

- DJCS has invested in specialist mental health units in prisons to meet the demand for specialist mental health services, including through the opening of Ravenhall Correctional Centre, and the refurbishment of the Marmak Unit at the Dame Phyllis Frost Centre.
- The ‘Strengthening Connections’ Women’s Policy’ is a trauma-informed approach to the women’s prison system and includes improvements to body searching, recruitment and prison officer training.
- The Aboriginal Social and Emotional Wellbeing Plan is building the capacity of mental health service providers to ensure holistic services are available that are culturally safe and responsive.

The unique needs of children and young people

- Previous experiences of trauma and abuse are widespread for children and young people in the youth justice system, often including involvement in the child protection system. Offending behaviour in children and young people should also be seen as indicative of developmental issues that require support and early intervention.
- A differentiated approach is required to meet the unique needs of children and young people with mental health issues in or at risk of involvement in youth justice.
- Children and young people in custody have access to 24-hour mental health supports through the primary mental health service, as well as specialist mental health services five days a week and on-call through the Custodial Forensic Youth Mental Health Service.
- The Youth Justice Strategic Plan was released in May 2020 and provides a blueprint for delivering a more effective youth justice system. The Plan acknowledges that strengthening mental health responses and services for all Victorians is a key priority and commits to responding to the Royal Commission into Victoria’s Mental Health System.
- DJCS is also designing the Cherry Creek Youth Justice facility with a dedicated health and mental health facility to ensure children and young people who need more intensive mental health treatment and monitoring can receive it in custody. This is in addition to the delivery of three youth secure beds at Footscray Hospital.

Mental health supports for victims of crime

- Victims of crime require a range of supports in their engagement with service agencies and the justice system, including for mental health. DJCS supports victims through services including the Victims of Crime Helpline, the Victims Assistance Program and the Victims Register.

Principles and opportunities for innovation

- The mental health care of those in contact with the justice system, or at risk of contact, should be part of a lifetime continuum of care that steps up and down with their health needs, not their legal status.
- The current ‘Common clients’ reform supports clients interacting with systems across justice, health and human services. The reform aims to reduce repeated and escalated contact of clients of both DJCS and DHHS services, by ensuring that irrespective of whether services are funded by DHHS or the justice system, needs are met effectively. This requires greater integration, coordination and planning between the two departments, and recognises that often people access multiple systems and services at once – but these have been crisis and response driven, rather than preventative.
- Future service design should be done with communities to ensure that service offerings are reflective of the lived experiences of people who have lived with mental illness in the justice system. This should be guided by successful codesign processes such as the historic work between government and the Aboriginal community through the Aboriginal Justice Forum, which is a key part of ongoing work, and Family Violence reforms.