

NSSS ADVOCACY BULLETIN

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A surprising ignorance of the law

You would never think that service providers in important positions were ignorant of key sections of the laws under which they worked. After all, they're supposed to be professionals, and they're paid well to be diligent and knowledgeable.

All too often, though, officials at the highest level just don't know the basics.

Case history 1: A senior staff educator for community mental health in Vancouver, giving workshops to staff – this is the person in charge of training others – assumes dangerousness is the criterion for involuntary committal. It's left to an NSSS member auditing the session to point out he's mistaken. "To prevent....substantial mental or physical deterioration" is the leading committal criterion.

The trainer asks the doctors at the session if someone can corroborate this. He himself, it seems, just doesn't know.

Could anything be more basic for a psychiatric service provider than the committal provision of his own province's Mental Health Act?

Case history 2: A senior psychiatrist in the Psychiatric Assessment Unit at Vancouver Hospital discharges an ill young man the day after another psychiatrist, worried about the patient's deterioration, has certified him. The reported reason for the discharge: the PAU psychiatrist considers the young man's recent behaviour not particularly risky, effectively ignoring the main criterion for committal.

Case history 3: According to a statement by Mental Health and Addictions on the North Shore, "privacy legislation and our commitment to patient confidentiality preclude our discussing details of any patient's or client's care with anyone but the patient her/himself."

In fact, though, the applicable legislation, the Freedom of Information and Protection of Privacy Act (FIPPA), doesn't preclude that at all. FIPPA, as explained by a Ministry of Health fact sheet, allows the sharing of information with third parties, even without the

consent of the patient, "where disclosure is required for continuity of care or for compelling reasons if someone's health or safety is at risk."

Indeed, the inclusion of family members as part of the treatment team, which is best practices, would be impossible if relevant medical information couldn't be shared with them.

Vancouver Coastal Health's policy on the matter, which more immediately governs mental health services on the North Shore, conforms to FIPPA. It would be improper if it didn't.

How are these basic mistakes made – mistakes which can have huge negative repercussions?

Keep in mind that the Guide to the Mental Health Act clearly explains the committal provision in the Act and also includes the Ministry of Health fact sheet on information sharing. When the guide was originally issued, moreover, workshops were done to bring service providers up to speed.

Many service providers do not understand their own legislation. For the most part, though, there is a widespread culture in mental-health-services, from top to bottom, that perpetuates the mistakes and the false assumptions that lie behind them, as our case histories illustrate.

Some observers suggest that requiring dangerousness for committal is just the system's way of doing triage.

They cite Riverview's downsizing and a shortage of acute care beds in hospital psychiatric wards. Taking everyone into care who needs help and should be committed would be impossible, the argument goes.

A dangerousness requirement keeps the numbers in hospital down to a manageable size.

Sometimes this rationalization is put explicitly by service providers themselves. "If we followed the deterioration provision, we would have to commit half the people in the Downtown East Side," one case worker pronounced dismissively.

Or, in response to a plea for outreach in a particular case: "The system can't go chasing people who won't come in for their meds."

NSSS doesn't accept these excuses.

It's dishonest and medically improper to pretend that a key provision for treatment doesn't exist or to act as if it doesn't exist.

If someone needs to be in hospital, moreover – and the wording of the committal provision is there for a reason – then a bed should be found, just as it is for someone who needs to be in hospital for another illness.

Just as often, too, it's not a question of beds but simply of repeating the fundamental mistake about the committal provision, with often grave consequences. It means leaving people whom we have a medical duty to help to suffer further damage from their illness and often to terrible tragedy.

There is no excuse for that.

Tragedies that should not have happened

Cases of tragedies that should not have happened continue to occur, as if we in Canada haven't learned anything from past tragedies.

Two such cases you may already be familiar with, since they generated so much media coverage.

First was the sad, very sad, case of Vince Li and the gruesome killing of a young man on a bus bound for Winnipeg from Edmonton, as Mr. Li acted on his command hallucinations. Mr. Li was recently found "not criminally responsible because of a mental disorder." It had been quite clear he was ill and needed intensive and continuing medical help, but the system failed him, and failed the young man and the young man's family, too.

Mr. Li was in fact, a few years earlier, committed at the William Osler Health Centre in Etobicoke, Ontario, where he was diagnosed with schizophrenia. But he refused prescribed medication and after 10 days walked out.

It seems the hospital didn't follow up by contacting police, which they should have done since Mr. Li was still under certificate. It appears as well that even with that one time in hospital, his taking medication was never required, which is possible in some cases under the faulty Ontario mental health act.

Under the Ontario legislation, a person can be committed because they are a threat to themselves, but having to take medication to deal with their illness doesn't necessarily follow if they refuse.

They end up in hospital in those circumstances solely for security reasons, like being in jail, while the illness continues its ravages, until all the bureaucratic hurdles are crossed, with their delays, and something is ultimately done.

Before that could happen, in this case, Mr. Li had decamped.

In British Columbia, on the other hand, the whole purpose of committal is treatment for the illness, and treatment follows as a matter of course.

The Ontario law is also very restrictive when it comes to committal itself, requiring a threat to oneself or others regardless of how ill the person is and the damage being done by the illness.

The Ontario law is badly in need of reform.

Young woman left to strangle herself in prison

Then there's the case of 19-year-old Ashley Smith who strangled herself in an Ontario prison while seven guards stood back because they had been instructed not to intervene if she was still breathing.

That was bad enough. The real offense against Ashley, though, was that she was in prison to begin with, for a string of minor offenses, rather than in hospital. She was a deeply troubled woman, who needed care and protection rather than the cold bars of a prison.

The system failed her, too. Her heartbroken mother said she felt her daughter died because "no one in Canada really cared."

FEEDBACK WELCOME

We welcome your comments on anything you read in the Bulletin. If you have a story of your own you would like to tell us about or bring to our attention, please also get in touch. You can call us at 604-926-0856, drop by the Family Support Centre, or send us an email at advocacy@northshoreschizophrenia.org.

The Insanity Offense a disturbing read

The failure of Americans to treat the seriously mentally ill has led to one of the great social disasters of American history, according to E. Fuller Torrey, in his most recent book, *The Insanity Offense*.

Torrey, a leading U.S. psychiatrist and advocate for the mentally ill, is the author of *Surviving Schizophrenia* and *Surviving Manic Depression*, both well-known guides, as well as many other books in the field.

He is also president of the Treatment Advocacy Centre which fights for more pro-active treatment legislation in the U.S.

Torrey documents how excessively restrictive committal laws in many American states have left the seriously mentally ill adrift, resulting in numerous violent episodes and the victimization of the mentally ill themselves.

More than half of the patients discharged from public mental hospitals in the "deinstitutionalization wave" in the U.S. have been left without treatment.

The consequences have been devastating, including an increase in homicides by the mentally ill in the throes of psychosis, where desperate efforts by their families to get them into hospital have failed.

The stories Torrey tells will break your heart.

Torrey has been criticized for pointing out how untreated illness can lead to violence because, the critics argue, this stigmatizes the mentally ill.

Torrey, and NSSS with him, disagree with that claim. The question isn't about the mentally ill and their personalities and character. It's about whether they get adequate treatment for their illness.

People with schizophrenia and mania who are untreated are six times more likely to commit violence than the population as a whole, whereas those who are treated and free of their psychosis and paranoia are no more prone to violence than anyone else, indeed are probably less violent than others.

What stigmatizes the mentally ill is society not helping them with committal to hospital where necessary, and the many tragic incidents and media coverage that follow.

The mentally ill themselves are the worst hit by violence, because of their vulnerability. One-quarter of the severely mentally ill living "in the community" in the U.S. are victims of violent crime each year, including murder.

At least one-third of the homeless in the U.S. are mentally ill and suffer from the wretchedness and hazards that go with being homeless.

We're also reminded indirectly, by *The Insanity Offense*, how difficult it is to effect change, especially when it comes to helping the mentally ill.

It's true that at the heart of the disaster that Torrey chronicles are the restrictive laws governing committal – laws ostensibly meant to protect the civil liberties of the mentally ill, but that really betray them.

Why, though, hasn't society taken the necessary steps to reverse the tragedy? A compassionate society that understood and cared about the mentally ill would have done so.

Torrey, who by the way, as well as being a psychiatrist, has a sister with schizophrenia, keeps tirelessly pushing for change in the face of such inaction.

He has been fighting this battle for better treatment of the mentally ill for a long time.

You could say, with this book, he's decided on shock tactics, but all that he's really doing is reporting what's being happening and explaining why, and what has been happening is shocking and dismaying.

The Treatment Advocacy Centre has been reporting these cases all along. Gathering them together in a book, together with context, brings home the magnitude of the tragedy.

The Insanity Offense, with its frank portrayal of the situation, was a courageous book to write.