



## Overrepresentation of Persons with Mental Health and Cognitive Functioning Issues in the Criminal Justice System (CJS)

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Young people are highly aware of the relationship between mental health, addiction, and crime. Youth agree that the Criminal Justice System (CJS) must take a more active role to address mental health issues through programming and services both within and connected to the CJS.

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### What we also found<sup>1</sup>

- Young people believed that mental health issues play a role in many cases before the courts for both offenders and victims including both pre-existing mental health issues as well as those arising as a consequence of the criminal act or contact with the CJS.
- They believed that it is important to consider mental health issues in all aspects of the CJS including determining whether to charge and prosecute accused, the appropriate sentence convicted offenders, and in deciding on approaches to rehabilitation. For victims, it was important to consider mental health in services and supports (both the types of services as well as access to them), and victims' role and voice in the court.
- In both 2016 and 2017, a majority of youth felt that prevention and early intervention are key to addressing mental health issues. They thought that the CJS should coordinate internally and with other systems (education, health, social services) on preventative programming to help keep people with mental health issues and cognitive functioning challenges out of the CJS and as a way of reducing recidivism.
- Youth strongly believed that police and others working in the CJS need to be trained to identify mental health issues, especially when individuals may be experiencing crises.
- Youth believed that all communities should have resources available to help people suffering from mental health challenges.

### In more depth

In both 2016 and 2017, youth action committee members noted that an individual experiencing mental health challenges may benefit from therapy or counselling as part of, or as the entirety of, their sentence. Youth noted that incarceration may exacerbate mental health challenges. Additionally, individuals with cognitive functioning challenges



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may not understand the consequences of their criminal actions; they may not understand the causal relationship between their actions and their sentence.

In both 2016 and 2017, Youth Action Committee (YAC) members suggested offering counsellors, psychiatrists, psychologists, and group therapy sessions to support individuals with mental health issues and cognitive functioning challenges in navigating the CJS.

Some youth noted that offenders who may not claim to have mental health problems may still be suffering from them. Some youth believed that all offenders should be assessed to ensure that the CJS professionals have all the information required to make decisions about the offender's future and to help them address their needs so they can function in society.

Youth identified the need to provide comprehensive evidence-based programs that have shown success in meeting the specific needs of people with Fetal Alcohol Syndrome Disorder (FASD). Such programs must be broadly and consistently accessible, supported through stable funding and staffed by trained service providers.

Youth very clearly identified the importance of addressing mental health issues and cognitive functioning challenges for offenders and victims who may suffer trauma based on their experience. However, they did not discuss what programs and services could look like or how they would be offered.

In their own words,

*"... A lot of the time offenders commit crimes for mental health reasons; mood disorders, anxiety and trauma-related disorders, self-harm, substance related disorders, psychotic disorders, etc. A lot of the time I think victims find themselves in the "Why" zone thinking to themselves after, "why the offender did such a thing." I think [Restorative Justice] would be an unbiased way for them to come to an impartial understanding. "*

*"This means to me that a judge should take into account an individual's past, their mental and physical well-being, the scale of their crime etc. to ensure the individual is being sentenced appropriately."*

## Method

Justice Canada, in partnership with the Students Commission of Canada (SCC)<sup>2</sup>, conducted youth engagement projects in both 2016 and 2017. Each project explored youths' views, perceptions and expectations of the criminal justice system. This was done through developing and hosting a Justice Youth Action Committee (YAC)<sup>3</sup>, gathering opinions through youth-led Community Action Projects (CAPs)<sup>4</sup>, and hosting the Canada We Want Conference.<sup>5</sup>

**Youth Engagement on the CJS Project 2016:** Fourteen Justice YAC members representing Indigenous, non-Indigenous, rural, urban, and other diverse populations participated in monthly video calls from September 2016 to February 2017. The calls focused on youth perceptions of crime and the CJS, guiding principles and values of the CJS, and the connection between vulnerability, marginalization, and criminalization. YAC members engaged over 350 youth from across Canada in CAPs to gather opinions and perspectives on the CJS. Committee members utilized surveys (hard copy and digital), interviews, and discussion groups to gather youth voice and reported back to the committee facilitators and during committee calls. Following each call, the youth went back to their communities to solicit feedback from other young people on the issues discussed in the calls. Four CAPs were completed. The engagement continued at the Canada We



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Want Conference, where the **Justice System We Want theme team**, a group of seventeen youth, from six provinces, one territory, representing Indigenous and non-Indigenous, Northern, and a number of other diverse populations, engaged in five days of discussion on the values and objectives that they hope the CJS would uphold in the future.

**Youth Engagement on the Criminal Justice System (CJS) Project 2017:** Eight Justice Youth Action Committee members representing Indigenous, non-Indigenous, rural, urban, and other diverse populations joined bi-weekly calls from June 2017 to March 2018. This project had an issue-based focus relevant to the work of Justice Canada. Issues covered included: bail and AOJOs, restorative justice, problem-solving justice, overrepresentation of Indigenous persons in the CJS, overrepresentation of persons with mental health and cognitive issues in the CJS, performance measurement of the CJS, and the perspectives of victims of crime. During the 2018 Canada We Want Conference the **CJS theme team**, a group of 11 youth and 2 youth facilitators from 2 territories and 5 provinces, representing Indigenous and non-Indigenous, Northern, and a number of other diverse populations, engaged in discussion around justice issues.

Justice Canada and the SCC provided research on mental health issues and statistics on the overrepresentation of individuals with mental health issues and cognitive functioning challenges, particularly fetal alcohol spectrum disorder (FASD), including the prevalence of mental health disorders and FASD among incarcerated offenders. **CJS theme team** members were presented with scenarios outlining details about offenders, several of which referenced or suggested mental disorders and one of which specifically referenced FASD. These scenarios formed the basis of discussion, ensuring that mental health and cognitive functioning were addressed in detail. Mental health issues commonly came up when discussing sentencing, the overrepresentation of Indigenous people, and restorative justice. At the completion of the conference, the theme team members came up with 5 recommendations, one of which focused solely on mental health supports to reduce overrepresentation of people with mental health issues and cognitive functioning challenges in the CJS.<sup>6</sup> This recommendation was shared with and validated by 11 theme team members and 140 conference delegates.

**For further information on the findings and/or surveys mentioned in this document please contact the Department of Justice's Research and Statistics Division ([rsd.drs@justice.gc.ca](mailto:rsd.drs@justice.gc.ca))**

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<sup>1</sup> Unless otherwise noted, all findings are from the Youth Engagement on the Criminal Justice System Project 2017.

<sup>2</sup> The Students Commission of Canada is a national charitable organization with a mission to support young people in putting their ideas for improving themselves and their communities into action. The Centre of Excellence for Youth Engagement is a network of youth, youth organizations and academics focused on providing evidence on the benefits of youth engagement and positive youth development.

<sup>3</sup> The Students Commission selected members to join the Youth Action Committee for Justice Canada. The youth selected were from across the country, aged between 12 and 22 years, lived in urban and rural communities, were from diverse backgrounds and cultures, and had varied life experiences.

<sup>4</sup> Community action projects required YAC (Youth Action Committee) members to go into their communities and gather data from their peers using the survey questions identified on the calls. Youth could deliver a survey, a focus/discussion group, or interviews to collect this data.

<sup>5</sup> At the "Canada We Want" conference, the **CJS theme team** (a diverse group of youth from across Canada) generated recommendations for policy makers and other young Canadians regarding the criminal justice system.



# Research at a Glance

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<sup>6</sup> As recommended by the *CJS theme team* at the 2018 Canada We Want Conference, mental health services should be provided to offenders both within and outside of detention facilities to ensure that they receive the support they need to break the cycle of offending.