

## **A joint thematic inspection of the criminal justice journey for individuals with mental health needs and disorders**

In early 2021 Her Majesty's Inspectorate of Probation, supported by HMICFRS, HMCPSI, CQC, HIW, and HMIP carried out a joint inspection which followed the progress of individuals with mental health needs and disorders through the criminal justice system. This report is deeply important and concerning in equal measure.

It concludes that the criminal justice system is failing people with mental health issues – with not enough progress over the past 12 years. This failure is systemic and applies to: on arrest, in the courts, in prison and on probation.

It is intended that the report and its findings be placed on the Agenda of both the Local Criminal Justice Board and the Regional Criminal Justice Collaboration Forum for discussion and to identify the action that is required to address and implement the recommendations in the report by criminal justice partners and by central government departments.

The report concluded with several main national findings, including:

- Significant problems with information exchange occur in every agency in the CJS and at every stage of an individual's criminal justice journey
- Committed staff, but too many need better training and supervision on mental health of suspects and how this may affect decision-making
- Reports to court do not give enough attention to each individual's diverse needs and rely far too much on self-reporting
- Assessment and diversion services in police custody have improved but they need to link to the rest of the criminal justice system
- A shortage of good-quality mental health provision and unacceptable delays to access it
- Mental health provision in prison has improved but post-release treatment and support are poor
- Cross-agency data is not systematically collected and analysed to promote joint-working and improve mental health outcomes

In the West Midlands, we know that rates of mental ill-health are high among those who pass through the Criminal Justice System (CJS). We know also that, even where consistent information is available, the data picture is far from complete given the high number of cases which, for a variety of reasons, are never properly diagnosed.

This is important to recognise for 3 primary reasons:

- A. The criminal justice process itself can be incredibly traumatising and detrimental to mental health – criminal justice agencies therefore have a duty of care to individuals in contact with the CJS who deserve access to treatment;
- B. Mental ill-health (in its various forms) can trigger harmful behaviour which leads to contact with the CJS – combatting harmful behaviour thus necessitates some action be taken to treat mental ill-health;

- C. Mental illness, particularly in its most severe forms, can massively impact an individual's capacity to understand and participate in criminal justice processes – the application of open and fair justice therefore demands proper recognition for individuals with problems associated with mental ill-health.

This report found that:

- It is crucial that individuals with a mental health condition or disorder are identified as early as possible in their journey through the CJS and afforded the necessary support. There are, undoubtedly, a number of challenges which inhibit this work from a policing perspective in the West Midlands.
- A lot of mental health conditions are never diagnosed and for individuals in regular contact with the CJS, who very often have experience of multiple traumas, they can be particularly hard for criminal justice agencies to identify. To compound this, there is a broad lack of co-working or information sharing between criminal justice agencies and treatment partners which inhibits the identification of support needs.
- It is recognised, both locally and nationally, that the provision of limited information police hold in any investigation regarding a suspect's mental health to the CPS is not consistent and is routinely poor. Through the West Midlands Police (WMP) Vulnerability Improvement Board Mental Health Sub Group meetings, this issue is being tackled with FCID and CJ/CPS leads.
- It is nationally accepted that training in relation to mental health matters within the CJS is lacking. The CoP are still creating a NCALT package that is very late in being delivered to police forces. That being said, through the training of MH Tactical Advisors in all of the Force's departments, particularly FCID and PPU, all officers will have access to detailed, accurate, and timely advice in relation to MH matters.

WMP are working to ensure that provision for individuals with MH support needs and the early identification of those needs is improved. Examples of this work include:

- Training is currently being developed by the WMP FCID and PPU teams which will look at approaches to and the identification of mental health within Out of Court Disposals (OOCDS) and Victims Code of Compliance (VCOP) processes.
- WMP supported and delivered a nationally recognised Street Triage service since 2014. That scheme is concluding because, despite it being very effective, the extra demands the service placed on policing resources in recent times, outstripped WMP's capacity. The Mental Health Tactical Advisor initiative will extend the reach of the triage scheme whilst retaining the quality of service offered to the public, external partners, and internal partners.
- WMP are presently working to improve the availability, prevalence, and sophistication of mental health flagging, but is not without its technical difficulties given the disparate systems in use. This work will form the basis of a separate 'task & finish' group devolved from WMP's MH Sub-Group meeting.
- WMP are confident that risks and vulnerabilities are properly identified during risk assessment processes (particularly for voluntary attendees) and in a recent HMIC inspection, WMP were found to be performing well in this regard.

In a wider sense, there are also several layers of work ongoing across the region to address the issues faced by individuals with mental health conditions in contact with the CJS. Much of this work is outlined in the new Police and Crime Plan, published on 1 November 2021. In that plan, for example, it is explicitly stated that the PCC will work with partners across the CJS to "further increase the use of

Mental Health Treatment Requirements, rather than impose custodial sentences on those whose offending is related to poor mental health.” Beyond that, stakeholders across the West Midlands, are engaged in mutual efforts to combat the burgeoning mental health crisis in the region in a number of ways:

- Within the Women & Girls Delivery Group, facilitated by the Office of the Police & Crime Commissioner (OPCC), women’s health and sentencing options task and finish groups have been established. Whilst the current focus of these groups is not mental health and neurodiversity specifically, they recognise the need to address these issues and will do so as part of their action plans moving forward. Personality disorders is an example of one area of focus that the health task and finish group will adopt.
- The New Chance initiative – a multi-agency support programme funded by the OPCC – takes a trauma-informed, holistic approach to working with female offenders and seeks to support them with the multiple, complex needs at the root of their behaviour. Women referred to this service frequently present with mental health needs and trauma, which the service seeks to support them with. However, waiting lists for mental health services/ therapeutic support are notoriously long and paid counselling is sometimes sought as a consequence.
- The Violence Reduction Unit (VRU) is offering mental health support to young people aged 14-25 at risk of engaging in, or being victims of, violence through newly created Heal Hubs. The project is being delivered across the seven local authorities and provides direct access to weekly Cognitive Behavioural Therapy (CBT) sessions for 24 weeks. It is aiming to work with PRU’s, alternative provisions, youth offending services and other local partners who work with or are in contact with young people who are deemed to be high risk. Young people can self-refer to the project, or they can be referred through a parent/carer, teacher, keyworker or other professional. Once the young person is referred and assessed, they will have the opportunity to choose their own therapist, ensuring they feel comfortable disclosing and talking through the issues they are facing and sessions will be held at a time suitable for them.
- The OPCC is working with WMP to look at how custody centres, which we know are especially trauma inducing environments, can be made more responsive to the needs of individuals, especially children, who present with mental health support needs.
- The OPCC is working with local criminal justice partners – including HMCTS, the Probation Service, and a range of community treatment partners – to establish a new Problem-Solving Court for female offenders. This court will bring together intervention partners, including mental health, to deliver an integrated programme of support for vulnerable women. This work will be dealt with under the authority of a single judge who will review the case over 26 weeks, paying close attention to issues like mental health support, which we know is a significant driver of offending behaviour.
- The OPCC is working with the Regional CJS Performance Group to assess the standard and consistency of decision making in relation to OC10 and OC12 cases and to use this to determine any training or briefing requirements and the need for any ongoing oversight. The Group will also have a focus on understanding the data held by, and the data sharing process between, CJS agencies and to understand how data can be used to drive change and improve mental health outcomes.

The findings in the report are closely linked to the findings from the joint inspection on neurodiversity in the criminal justice system published December 2020, which noted that professionals who work in the CJS have, for many years, been concerned about the experiences of and outcomes for neurodivergent individuals and concluding specifically for Police, that on arrest neurodivergent individuals may not be recognised and are at more risk of:

- Being arrested due to their behaviour not being recognised as a manifestation of their condition
- Becoming unsettled by the police custody process, leading them to exhibit behaviours which are interpreted as non-compliant, meaning that they may not receive the support they need
- Not fully understanding the process, not being able to effectively engage with the investigation without support or to have someone advocate on their behalf

Simon Foster

**West Midlands Police and Crime Commissioner**

A handwritten signature in black ink, appearing to read 'S Foster', with a large, stylized initial 'S'.