



Submission to
The Standing Committee on Justice Policy on
Bill 175, Safer Ontario Act, 2017
February 28, 2018

The Centre for Addiction and Mental Health (CAMH) is pleased to offer our comments to the Standing Committee on Justice Policy on *Bill 175, Safer Ontario Act*. CAMH is Canada's largest mental health and addictions health science centre. We combine clinical care, research, education and system building to transform the lives of people affected by mental illness. Mental health and criminal justice is a public policy priority for CAMH and we have participated in numerous consultations on policing including the Strategy for a Safer Ontario and the Independent Police Oversight Review.

Overall, CAMH supports the new and amended legislation outlined in *Bill 175*. We believe that these changes are a good first step in ensuring that Ontario's police services are better equipped to serve their communities. We are hopeful that forthcoming regulations will provide further direction to police services on how to improve their interactions with vulnerable populations, including people with mental illness. In this submission, CAMH offers some recommendations for government to consider when developing these regulations.

CAMH's concern with *Bill 175* relates specifically to the *Missing Person's Act*. As described in more detail below, allowing police to 'demand' the release of personal health information could compromise the privacy rights of individuals involved in the mental health system. CAMH asks that government consider alternatives that would strike a more reasonable balance between privacy and safety.

Police Services Act

CAMH is pleased that the *Police Services Act* requires police services boards and the OPP to include a plan to address interactions with people with mental illness in their strategic plans. We recommend that regulations require that these plans focus on de-escalation strategies, access to Mobile Crisis Intervention Teams and the creation of diversion opportunities. Plans to address police interactions with people with mental illness would also benefit from the creation of province-wide protocols and standards of practice in this area.

The new requirement for all police services to develop collaborative Community Safety and Well-being Plans is an extremely important addition to the *Police Services Act*. CAMH supports the intended goals of these plans: to identify, prioritize and reduce risk factors that contribute to the criminal justice involvement of vulnerable individuals. Preventing interactions between police and people with mental illness is central to reducing the criminalization of this population. Community Safety and Well-being

Plans will assist by bringing police and community partners together to improve, co-ordinate and create new services to divert people with mental illness and other vulnerable groups away from the criminal justice system. We agree that advisory committees should help guide the development and implementation of Community Safety and Well-being Plans and that representatives from mental health organizations should be a part of these committees. However, to ensure that these plans truly meet the needs of people with mental illness, we recommend that people representing the community of people living with mental illness also have membership on the advisory committees.

The *Police Services Act* makes several references to training and the requirement that police officers be provided with and participate in training. The *Act* does not specify what should be included in this training. De-escalation training is critical for improving interactions between police and people with mental illness, yet the content and frequency of this training is inconsistent across the province's police services. CAMH recommends that regulations require standardized police de-escalation training across Ontario. This training should be practical, scenario-based, and created and provided by mental health experts such as people with lived experience of mental illness.

Finally, the *Police Services Act* provides the Minister with the opportunity to conduct research to inform policy and program development, system planning, service delivery and outcomes related to policing. This type of research is critical for understanding and improving police interactions with people with mental illness and other vulnerable populations. However, the *Act* does not include any requirements for the collection of data that would assist with this type of research. CAMH recommends that regulations set out a process for the collection of reliable and valid data on all police interactions with people with mental illness (as well as a body responsible for this data – see next section). This data will not only assist with province-wide research and systemic improvement, but will allow for enhanced debriefing and analysis of police interactions with people with mental illness within individual police services.

Police Oversight Act

CAMH and the Canadian Mental Health Association (CMHA) Ontario made a joint submission to the Independent Police Oversight Review where we recommended that the three police oversight bodies be brought together under one overall body to allow for better information sharing and linking between investigations. The *Police Oversight Act* maintains the 3 oversight bodies as separate entities, but there is still the opportunity to improve information sharing, specifically information related to police interactions with people with mental illness. In our shared submission, CAMH and CMHA proposed the establishment of a Mental Health Directorate - connecting and connect to, the oversight bodies – who would be responsible for the collection and sharing of reliable and valid data on police interactions with people with mental illness. This information would assist oversight bodies in their investigations and help identify broader systemic issues. The Directorate would be responsible for using this data to better understand the extent and context of police interactions with people with mental illness and making improvements to police practice. The Mental Health Directorate would also be responsible for setting and monitoring province-wide protocols and standards of practice as well as other tasks related to mental health and policing.

CAMH is pleased to see that the *Police Oversight Act* requires detailed publication of SIU reports when charges are not laid. SIU investigations can be heavily censored and it is important that the public get a full understanding of what has happened when police interactions with people with mental illness end in tragedy. Publishing a detailed narrative, summary of the evidence, audio and visual evidence, and the reason no charges were laid will help the public to get a clearer picture of these interactions.

Coroner's Act

Proposed changes to the *Coroner's Act* would make inquests mandatory when a person dies due to police use of force or while in police custody. Inquests can be useful tools for providing insight into police-involved deaths and providing recommendations to avoid such deaths in the future. Over the past several years, many inquests have been conducted on fatal interactions between police and people with mental illness. These inquests have produced numerous recommendations that would help police to reduce and improve their interactions with this vulnerable population. While some recommendations have been implemented, many have not. Inquest recommendations are not required to be implemented, making it difficult to effect real change. As CAMH and CMHA recommended in our submission to the Independent Police Oversight Review, inquest recommendations made to police services in relation to fatalities of people with mental illness should be implemented where it is feasible to do so.

Missing Person's Act

The proposed *Missing Person's Act* would give police easier access to information, including personal health information (PHI), to assist in the search of a missing person. CAMH supports the intent of the *Act* – we want police to be able to locate missing individuals quickly and safely and we want to help them to do so – but we are concerned that if the *Act* is implemented as it currently stands, patient privacy would be jeopardized.

At present, if a person is missing, the police can request the release of PHI to help them locate the individual. The *Personal Health Information Protection Act (PHIPA)* gives health care custodians discretion to determine what information to release in response to police requests. Section 5 of the *Act* would remove this discretion from health care custodians. Under this section, police could 'demand' the release of PHI to assist in the search for a missing person in the absence of a criminal investigation. Health care custodians would have a duty to comply with this demand.

CAMH works closely with local police services when one of our patients goes missing by proactively sharing clinical and risk-related information. We also respond promptly when police call looking for a member of the public who is missing. In these circumstances, CAMH determines which information is important to share (e.g. the person is an inpatient) without compromising privacy (e.g. the reason for admission). Under Section 5 of the *Act*, police could demand (and receive) further PHI on our patients if they are not satisfied by what is provided.

CAMH is concerned that Section 5 of the *Act* would compromise our patients' privacy without significant benefit to personal or public safety. We believe that the current laws allow us to provide police with the

information that they need to locate missing persons while still protecting patient's PHI to greatest extent possible. We recognize that CAMH's close working relationship with local police services allows us both to meet our professional obligations under the current laws, but that all police services and healthcare custodians do not necessarily benefit from such collaborations. Nevertheless, we recommend that the government consider whether it is necessary to include Section 5 in the *Act*. For instance, Section 4 would allow police to make an application to a judicial body in situations where they believe more information is needed from a health care custodian. This may strike a more reasonable balance between patient privacy and officers' duty to protect personal and public safety.

Thank you to the Standing Committee on Justice Policy for the opportunity to provide comment on *Bill 175, Safer Ontario Act*. CAMH is pleased that the government is committed to improving police interactions with the communities that they serve, particularly people with mental illness. We are hopeful that regulations will provide further clarity on how these interactions can be improved and CAMH would be happy to offer our expertise to assist in developing these regulations.

For more information, please contact:

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