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of Australia

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The Police Federation of Australia (PFA) makes this submission on behalf of all state, territory & federal police associations/unions in Australia representing 50,000 police.

As one of the few groups of workers that are available 24 hours a day seven (7) days a week police often form the front line of contact for persons with mental illnesses. Police are generally the initial contact when someone is acting irrationally or dangerously.

As a result of those contacts, there are sadly numerous examples of where police officers have been seriously injured or killed by persons suffering from a mental illness, the most recent of which was the murder of Senior Constable Tony Clarke on Sunday 24 April 2005 (see newspaper attachments the Age 1/5/05 & the Herald Sun 4/5/05).

Whilst the murder of Senior Constable Clarke by Mark Bailey has highlighted the inadequate resources for dealing with mentally ill people in Victoria, the same situation applies in all jurisdictions.

Unfortunately, in a significant proportion of incidents where police have had to shoot persons, those persons have suffered from some form of mental illness. Often police officers never recover for such circumstances and themselves suffer severe psychological problems after such incidents often for the rest of their lives. As well there are numerous violent physical confrontations between police

and mentally ill persons where both police and the mentally ill are seriously injured.

The PFA trust that this Senate Select Committee on Mental Health will be in a position to make valid recommendations in respect to mental health issues that might protect not only Australian police officers but other vulnerable members of the community.

De-institutionalisation:

The trend in mental health right across Australia that has the biggest impact on policing is that of de-institutionalisation where mentally ill people are taken from institutions and integrated into the community.

There is no doubt that many of these people should not be released from institutions directly into the community. Whilst the PFA is not suggesting a complete reversal of that philosophy, persons that are released from institutions are often released directly into the path of local law enforcement.

We understand that the objective of such a philosophy is to give persons with a mental illness the opportunity to live as fulfilling and enjoyable a life as possible in a setting which, for the individual, is the most supportive and least restrictive for his/her freedom of choice and action.

Whilst this philosophy was based on good intentions, in general the alternative community-based services it promised were not provided and therefore left many persons with mental illness homeless and without services. There is anecdotal evidence that there are many people wandering our streets who are not ill enough to be locked up in a psychiatric hospital but are dangers to themselves and other members of the community, particularly police. It also appears that many people released from psychiatric hospitals have nowhere to go and end up living in the streets.

Living on the street also further complicates matters by making it difficult for mentally ill persons to receive follow-up services. Without this and ongoing care, these individuals often stop taking their medication and sooner or later, end up coming under the attention of law enforcement. It is at this point, what was once the institution's mental health problem now becomes a police problem.

Recommendation 1

That a far more thorough assessment of person in institutions be made before they are released into the community, particularly where there are symptoms of hatred towards police and other figures of authority

24 – 7 coverage:

The police are already, if reluctantly, in the front line of caring for people with severe mental illness. Given the stereotype of mentally disordered people as dangerous, citizens often call upon the police to “do something” in situations involving mentally ill individuals, particularly when they exhibit the more frightening and disturbing signs of mental disorder. Police, by virtue of their position, become the only emergency response agency to which the public can turn in times of crisis, whatever that crisis might be. The police are turned to for help – it is the only agency available 24 hours a day and the only service that can be relied upon to turn up within minutes of being called.

It is only natural that when a situation arises of that nature members of the public will ring 000 and a police response is expected.

A contradiction arises, however, because the police feel that their job is to step in only when action is deemed necessary, usually when someone is in danger or breaking the law. Police do not feel, and rightly so, that it is their role to provide psychotherapy, counseling or aid and comfort for the lonely and confused. This is the job of mental health professionals, a group whom police see to some extent, as abdicating their responsibilities, more often than not due to lack of funding and availability of positions. Police see the responsibilities thrust upon them as they are – they are being asked to shoulder duties no one else wants or can manage.

Police are being tasked with responsibility in an area which is time consuming and which they argue, is not a proper police function, except perhaps in a first response situation. But when limited or no assistance is obtainable from other agencies, police have little choice but to continue to carry the burden of a lack of effective government policy and lack of funding in mental health services.

Mental Health Acts:

In all jurisdictions police are given wide-ranging power to intervene in the lives of the mentally ill and mentally disordered by virtue of the respective Mental Health Acts.

Police are increasingly frustrated by the terms of what constitutes a mentally ill and mentally disordered person. The problem for police is that many of the people they come in contact with who appear to be suffering from a form of mental illness, are being deemed by mental health professionals as not fitting the legislated criteria of a mental health disorder or illness – it is deemed to be behavioral, and as such, whilst these people are being assessed, they are being refused to be scheduled even though it is obvious they are not well.

This is a clear example of the difficulties being faced by police. There appears to police, to be a gap in the various Acts in regards to behaviour and personality disorders. These people are not criminals but many are continual self-harmers. The fact remains that police, being the 24 hour, 7 day a week, mobile and free public service that they are, usually means that the residual problems of the community are left for them to handle when they have neither the resources nor the knowledge to adequately do so.

Recommendation 2

The PFA recommends that all Mental Health legislation ensure that definitions of mental illness and mental disorder have broad enough descriptions which provide for the possible scheduling of persons in need of assistance but who due to a current gap in the legislation are being prevented from receiving this help.

Memorandum's of Understanding:

Several jurisdictions have developed Memorandum of Understanding's (MOU) between their respective Police Departments and their Department of Health out of the need to have a formalised system of cooperation between the two, particularly when dealing with mental health crisis intervention.

Their general aims are to develop and formalise local working relationships between Police and Health services by providing guidelines for the handling of situations which involve both services, ensuring standards of care for the

mentally ill and agreeing on procedures for management of crisis and high risk situations.

The framework in the MOU's should be broad so as to allow for the development of specific protocols at a local level, utilising local service components and addressing local needs. Unfortunately, police often experience instances of non-compliance with the MOU's and local protocols by mental health staff and hospitals. This is often due to the fact that it is open to interpretation which allows mental health professionals to be selective with what they choose to use from it to best suit their needs.

In order for it to be effective MOU's should be legislated for in the various Mental Health Acts and have the support of local protocols. This is possibly the only way to ensure that the MOU becomes adhered to on a more regular basis than currently is the case.

Recommendation 3

The PFA recommends that each jurisdiction develop a state-wide Memorandum of Understanding between the Department of Health and the Police Service that is legislated for in the Mental Health Act and supported by local protocols.

Scheduling of patients:

A common problem for police is the presentation of persons requiring a mental health assessment.

The problem often faced by police is the amount of time they are forced to sit around at hospital waiting for relevant staff to make a decision on whether or not to schedule a patient. Police are being frustrated by the fact that they cannot be proactive whilst being forced to wait around in hospitals for these decisions to be made. While police are being tied up in hospitals for considerable periods of time, thoughts on who is going to protect the community in their absence are very real concerns. Their subsequent slow response times to incidents that occur while police are in this position are often the source of community frustration taken out on police when they finally arrive at the next job. The police role has become relegated to that of a babysitter and when one considers

the average amount of time police spend performing this function, it is obvious that police resources are not being used efficiently. The fact that most of these incidents arise after hours further complicates the matter by often very few mental health staff being available to perform the assessment.

What are police to do with a person who has been reported to them due to their behaviour that may not constitute a criminal offence but is sufficient for police to convey them to a hospital or institution for assessment when following that assessment police are told the person will not be scheduled? Should the person be taken home, or back to the streets, often to the volatile environment from which they have just been removed? Or should they be taken to the police station for charging as police have no general power to simply hold them for their own safety and well being? The decision is the police officers' and they can only hope that the choice they make for the individual is the best one for their well-being and care. There have been many instances of where police have then had complaints lodged against them by members of the public for the decision they have made. These complaints often take years to be investigated before the officer is cleared of any wrongdoing.

Police are often frustrated and angered by mental health professionals, who are fully aware of a police officer's duty of care. Duty of care essentially dictates that a police officer must do all within their power to take a person to a place of safety. Mental health professionals abuse the fact that once police bring in a person to be assessed for scheduling, they cannot simply leave due to their duty of care to the individual concerned. Hence whilst the decision is being made on whether or not to schedule a patient, police continue to remain with the patient, their role in effect changing from a policing role to a mental health role.

Once the individual is delivered to the hospital by police, they enter into the health system and from this point on, should cease to be the responsibility of the police. The police role should be one of delivery only. Once the individual arrives at hospital, the mental health units should be taking over, unless of course the individual has committed a criminal offence or is extremely violent. The police role is to prevent a breach of the peace hence if the delivery involved a violent or high risk offender then the police would be committed in staying until scheduling was complete.

Recommendation 4

The PFA recommends that the respective Departments of Health encourage and support the accreditation of more mental health workers, particularly on-call mental health workers, in hospitals and other mental health facilities in order to accelerate the assessment and scheduling process, thus freeing police of the current arduous waiting process and allowing them to return to normal policing duties in a more timely manner.

Scheduling Criteria for Patients:

There also appears to be a lack of consistency in the scheduling criteria for patients, with patients who clearly appear to need support not being scheduled, often only because resources do not appear to be available.

A major problem for police lies in the assessment of anyone affected by drugs or alcohol. It is clear to police that in many of these cases the drugs or alcohol are merely a symptom of a more underlying problem, one that more often than not relates to a mental illness or mental disorder, but as there may also be other compounding issues at play, it is ultimately up to the interpretation of the mental health worker as to what decision will be made in relation to these individuals.

When individuals are refused to be scheduled on the basis of being affected by drugs or alcohol police generally have only one avenue available to them in their duty of care, and that is to proceed by charge when inappropriate. Often in order to provide protection to the mentally ill person and the community, police feel they have no alternative but to charge a person because the mental health system will not accept responsibility.

A further issue is that of scheduling juvenile persons. In many cases, juveniles whom police attempt to schedule are refused on the basis that no accommodation is available for a juvenile, which in turn places strain back on the families, if they exist.

Recommendation 5

The PFA recommends that both mental health workers and police be provided with better education in relation to the issue of the dual diagnosis of the mentally ill in order to alleviate current confusion with assessment and scheduling criteria. This has occurred when it has been found that the mentally ill person is also under the influence of either drugs or alcohol which in the past, has prevented them from receiving the urgent medical assistance they require as in many of these cases, the drugs or alcohol are merely symptomatic of serious and underlying mental illnesses or disorders.

Recommendation 6

The PFA recommends that the respective Departments of Health focus urgent attention to the issue of juvenile mental health, particularly in country areas.

Inadequate Security at Hospitals:

Often poor security and practices of mental health centres allows patients to leave care all too easily. Police must then use already sparse resources to return those patients to the centres and hospitals.

In some cases the assessment process has been streamlined where non-violent consenting patients can be dropped off at a hospital by police to facilitate an assessment of their mental health, however, if that person gets tired of waiting or changes their mind and no longer wants to wait to be assessed, hospital staff do little to prevent them from leaving. If the person wants to leave, they simply just walk out. This is the main reason police often stay until the assessment process is completed and it is in line with their duty of care. In short, police have very little choice under the present system but to remain for the assessment process to be finalised as all too often, police find themselves dealing with the same person several times during a shift as the mental health process has failed the patient, the involved organisations and the wider community.

Another issue that is often raised is the inappropriateness of placing a patient suffering a mental illness into the back of a police truck, which could be considered as the least suitable vehicle for transport. Police should only be used as transport as a last resort.

Absent without leave (AWOL) patients also cause a significant problem for police. The fact that in most instances absconders from institutions have to be taken back to the hospital by police from where they escaped as opposed to being taken to the nearest hospital, also results in the tying up of already stretched police resources.

Possible strategies for consideration to alleviate this problem, could involve the establishment of separate wards or areas for voluntary and involuntary patients within the Mental Health Unit. The involuntary patients could be cared for in an area where the perimeter doors are secured to prevent them from leaving the unit without permission and ensuring their safety, with voluntary patients cared for in a less restrictive environment. An alternative solution could be to employ security officers to ensure that involuntary patients remain on the premises. Police would only be used in instances which involve either a breach of the peace, or an extremely violent patient.

Another problem identified is that police are generally not notified of the release of a person scheduled under the provisions of the respective Mental Health Acts. There needs to be a greater sharing of information by the respective health departments to police in relation to mental health issues. This could possibly take the form of a national database which could contain records of names of individuals who have been hospitalised, the types of mental illness they suffer etc so that when police come in contact with the individual, through the hospital they can be accurately informed as to their mental state, which would be of great assistance in helping police determine how they could be best treated.

Recommendation 7

The PFA recommends that Health Departments allocate more funds and implement measures as soon as possible to improve and strengthen security in hospitals and other mental health facilities in order to significantly limit the number of patients currently leaving these premises without authorisation.

Recommendation 8

The PFA recommends that all legislation in Mental Health allow police to return an escaped patient to the nearest facility, as opposed to the facility from which the patient originally escaped.

Recommendation 9

The PFA recommends that police be provided with up-to-date and accurate information by respective Health Departments in relation to mental health issues. This could take the form of a national health database for identification purposes in relation to the storing and updating of an individual's name and medical history. Access by hospitals to this information would in turn enable police to be better informed and more aware of how to best approach and interact with these individuals when they come in contact with them.

Transport:

Another problem being experienced by our members in relation to mental health issues, involves the use of police in the transport of mentally ill persons.

It is the view of the PFA that the preferred option to transport mentally ill persons is by trained medical staff in their vehicle. Where this is not feasible and the risk to staff is low, use of the Ambulance Service for transport would be appropriate. This recognises the person's right to dignity and recognises their condition as a health problem.

We argue that the use of police to transport mentally ill persons should only occur during any initial apprehension by the Police when the person has been apprehended by Police or when the risk to staff is high and mental health staff trained in the management of challenging behaviour, are unable to manage the situation without Police involvement. Police vehicles should only be used in extreme circumstances.

A common complaint by police is that their use is being abused and that increasingly they are being used as a taxi service. Local mental health teams are generally not even attempting to use their vehicles for transport between hospitals.

The use of police vehicles is completely inappropriate as a means of transport for the mentally ill and has obvious OH&S implications for both police and patients. The fact remains that these individuals should not be treated as offenders and as such it is inappropriate to be transporting them in police vehicles. The police are forced to place these patients into a caged vehicle when they are not an offender but are simply ill. This again leads to the issue of duty of care. Police regularly receive complaints about patients having to be treated like a prisoner instead of a patient by having them conveyed to and between hospitals in the caged section of police vehicles. There is also the issue of police officer safety and in particular, the injuries sustained by police in the course of transporting the mentally ill. Using police instead of the Health Department saves Health a considerable amount of money.

Recommendation 10

The PFA recommends the cessation of the routine transportation of mentally ill persons in police vehicles, ambulances and mental health vehicles on the basis of occupational health and safety issues which arise through such transportation methods. The PFA recommends in its place the establishment of a specialist purpose built transport unit, capable of providing for the welfare and security of the mentally ill and provided for by the respective Departments of Health through increased Government funding.

Recommendation 11

The PFA recommends that increased efforts be made by the Departments of Health to ensure that there is a local facility available at each hospital to securely keep mentally ill patients for limited short-term periods such as overnight and on weekends.

Mental Health Teams:

Urgent attention must be given to address the capability of mental health teams to respond outside Monday to Friday business hours and to respond to locations other than their own local hospitals.

Police should be given assistance from mental health workers both inside and outside of business hours, especially if the person concerned is known to the mental health unit. Mental health teams should also be required to accompany police when attending a Schedule, especially when the individual is not known to police. The police role in these scenarios (and they should only be used in the most extreme circumstances) should then only be limited to police merely providing security for the mental health workers.

Recommendation 12

The PFA recommends that the respective Departments of Health urgently address the capability of mental health teams to respond in physical call-outs outside of Monday to Friday business hours and to respond to locations other than their own local hospitals or facilities.

Interstate Transfers

Some jurisdictions have experienced difficulties when access to mental health professionals is across a state border.

Recommendation 13

The PFA recommends that the issue of cross border transfers of the mentally ill be urgently addressed by having the respective Ministers of the States reach an agreement permitting police to transfer the mentally ill to hospitals and other mental health facilities across State borders when the need arises.

Inappropriate Calls to the 000 Service:

There are a number of people throughout the community whose only telephone access is to the 000 Service. This group includes disadvantaged people who have not been able to pay telephone accounts, or meet other parameters as determined by relevant communications authorities in accordance with legislation or policy. Included, are a significant number who are under the care of Mental Health Services.

Unfortunately, there is evidence in some jurisdictions that these people make repeated telephone calls to 000, being the only phone service they have. The calls are made because the people are suffering delusions, or are simply lonely and isolated.

Recommendation 14

The PFA recommends that the respective Departments of Health looks towards establishing a system or process to alleviate the negative impact repeated telephone calls to 000 by the mentally ill and isolated continues to have on police responding to genuine emergency calls at the first opportunity.

Critical Incidents Involving the Mentally Ill:

It is not uncommon for people suffering a mental illness or acting irrationally, to feel threatened if confronted by a police officer. As earlier mentioned, a significant number of critical incidents and police shootings are found to involve mentally ill persons.

A report released in June 1998 on police shootings, showed that more than half the 41 people shot dead by Australian police officers since 1990 were under the influence of drugs or alcohol, and one third were depressed or had a history of psychiatric illness – a clear indication that the system is failing.

In NSW the cases of police shootings, Paul Klein (May 1998) Rodney Middleton (November 1998), and Ali Hamie (June 2000) all suffered from mental illness and

in all coronial inquests into their deaths, the NSW Coroners returned a finding of justifiable homicide.

"It must be remembered that Police are not greatly trained in the handling of such persons which any event, can be extremely difficult even for those specially trained." (NSW State Coroner John Abernathy in inquest into shooting death of Ali Hamie 1/2/02)

Police Training:

Whilst police are forced to often act as mental health and social service officers, they still have the primary obligation of restoring order and enforcing the law. To prepare police agencies to deal effectively and humanely with persons with mental illness, officers require recruitment and in-service training on the signs and symptoms of serious mental illness.

In NSW the Deputy State Coroner Janet Stevenson conducted an inquest into the death of Paul Klein in 1998, who had a history of mental illness. The Coroner found that the police officers involved had acted in self-defense. One of her recommendations was that police be given better training in dealing with mentally ill persons, a view which was reiterated later by the State Coroner John Abernathy in the inquest into the shooting death of Ali Hamie 1/2/02):

"That the NSW Police Service urgently provides comprehensive training to all NSW Police Academy students and operational police officers in the appropriate dealing with the mentally ill. Such issues should include issues such as the recognition of common and significant psychiatric problems, techniques for dealing with mentally ill persons and legal issues associated therewith."

The issue of greater training does pose some dilemmas for police. There may be a greater reluctance for mental health professionals to expedite to incidents arguing that police are trained in dealing with the mentally ill. As well there may be a view by members of the public that police are thoroughly trained in dealing with the mentally ill when in fact despite training, police officers cannot be expected to be mental health experts.

Recommendation 15

The PFA recommends that training be given to police regarding their obligations concerning the mentally ill.

Where to from here?

The public mental health system must evolve to meet the challenges of de-institutionalisation. Policymakers must recognise the need for significant increases in funding for mental health services in the community. The public mental health system and the criminal justice system must collaborate so that police officers have several alternatives, not just arrest or hospitalisation, when handling mentally ill persons in the community.

A more integrated system of care-giving must be designed to reduce the number of persons who fall through the cracks into the criminal justice 'net' and to provide effective community services to persons who are arrested and released. There must be a successful liaison between police and the mental health system.

Whilst improved training and techniques may help police better perform their duty, it is the area of improved co-operation between police and other agencies which needs to be developed.

It is becoming obvious, that persons who previously were treated within the mental health system are increasingly being shunted into the criminal justice system.

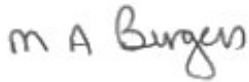
People with mental illness must not be criminalised as a result of inadequate funding for the mental health system. To stem the criminalisation of people with mental illness, early intervention must be allowed with continuous structure and supervision once the severely ill person is released from hospital into the community.

The overburdened role police have been forced to bear in relation to mental health should be shifted back to Health services where it belongs and where it can be best managed by specially trained mental health professionals.

Recommendation 16

The PFA recommends that respective Governments provide a long term commitment to funding in the area of mental health in the form of more beds in hospitals and other mental health facilities, more staff and better resourced community support programs. Such changes would assist in alleviating police of the overburdened role they have been forced to bear in relation to mental health issues, a role which then could be rightfully returned to Health Departments where it can be best managed by specially trained mental health professionals.

The Police Federation of Australia extends its appreciation to Sandra Soldo from the NSW Police Association Research Unit for allowing her research document on Police and Mental Health issues in NSW to be used extensively in this submission.



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