

**GNWT RESPONSE TO MOTION 12-17(3):
MENTAL HEALTH COURT DIVERSION MEASURES**

Motion

That the Departments of Justice and Health and Social Services work cooperatively to bring forward a plan for introduction of diversion measures including specialized courts and integrated case management for review in the 2013-2014 Business Plans; that the same departments provide the Standing Committee on Social Programs with a work plan at the earliest opportunity that will describe how this objective will be achieved, and that reflects the individual departments' responsibilities in achieving this goal, on which to base accountability; and that the Government of the Northwest Territories provide a comprehensive response to this motion within 120 days.

Response

Mental health diversion can redirect people with a mental illness or addictions issues, from the criminal justice system to mental health services. This assists judicial decision-making and enhances public safety by improving the provision of services and supports for residents with mental illness or addictions who are, or are at risk of, becoming involved in the justice system. Diversion is appropriate for individuals whose mental health needs can be met through services based in the community. Diversion can be made at several points: before an individual is charged, post-charge, and pre-trial where charges can be stayed if an offender agrees to treatment during trial in a Mental Health Court. Currently, five provinces (Ontario, Quebec, New Brunswick, Nova Scotia, and Newfoundland) and one territory (Yukon) have such courts.

The 2013-2014 Department of Justice Business Plan addresses current and planned work in the area of diversion measures. In 2012-13, an interdepartmental group was established with the departments of Health and Social Services, Municipal and Community Affairs, Executive, and Education, Culture and Employment. This working group is examining ways to support a collaborative case management approach that has a focus on mental health and addictions.

The Business Plan also identifies that in 2012-13 the Department began research on the feasibility of establishing specialized courts including the range of health and social program supports that would be required for such a court to be created. In conducting this feasibility work, Justice is also considering enhancements to existing pre-court and

post-court processes, such as integrated case management and diversion, in order to maximize their use and effectiveness. In 2013-14, Justice expects to proceed with recommendations arising from the feasibility study. We currently have one specialized court, the Domestic Violence Treatment Option Court. Experience in other jurisdictions indicates that specialized courts can lead to better outcomes for both the perpetrators and the victims of domestic violence. In 2013-14, the Department will assess the outcomes to date for the possibility of expanding the Domestic Violence Treatment Option Court program to other NWT communities.

Interdepartmental and interagency cooperation is essential for the success of any diversion program. Some of the challenges identified by other jurisdictions include the availability of housing and community mental health services. These are examples of potential barriers which need to be addressed before committing to any specific specialized court. A thorough analysis of the feasibility of alternative court options and the overall impact on services is needed in order to move forward in a manner that is sustainable and effective. An interdepartmental committee was approved by the Deputy Minister Social Envelope Committee, consisting of members from the departments of Health and Social Services; Education Culture and Employment; Municipal and Community Affairs; Justice and the Executive. The Assistant Deputy Minister of the Solicitor General Branch of the Department of Justice is Chair of this Committee that has a focus on addressing three main areas: integrated case management, diversion, and specialized courts.

In addition, the Department of Health and Social Services is implementing “*A Shared Path Towards Wellness: Mental Health and Addictions Action Plan 2012-15*”. This action is about actions that will be taken in the next three years to improve mental health and wellness in the NWT. The Action Plan focuses on four key priority areas:

- Promotion of Understanding, Awareness and Acceptance
- Focus on the Person
- Improving the Availability of Services
- Improving Effectiveness of Services

This Action and priorities are congruent with the work led by the Department of Justice.

Research into a new specialized court in the NWT must take into consideration the effectiveness of these courts, the nature of social and cognitive issues that are most prevalent in our territory, as well as the programs and supports that we can reasonably provide. The Department of Justice's role in this research is to examine the feasibility of a specialized court that would address mental health issues, addictions and/or FASD, while Health and Social Services has a key role in identifying the suite of programs and support services for individuals receiving sentencing in this type of specialized court – without these programs and services, a specialized court could not function.

A feasibility study work plan (**Appendix A**) has been developed and is currently being put into action. This plan has three stages:

- 1) The identification and engagement of partners and stakeholders who have an interest in improving the provision of services and supports for residents with mental illness or addictions, who are, or are at risk of, becoming involved in the justice system – To be completed by the end of December 2012;
- 2) Researching specialized courts, as well as progressive alternatives, cross-jurisdictionally that have proven to reduce the likelihood of further offences by offenders with mental health, addictions or FASD issues – To be completed by March 2013; and
- 3) To analyze the research and summarize findings to determine the feasibility of an NWT Specialized Court including the development of a work plan of next steps/best practices of how to implement a specialized court in the NWT – To be completed by the end of March 2012.

The committee expects to complete their assessment of the feasibility of a specialized court in the NWT by the end of this fiscal year (2012/13).

The judiciary have expressed interest in a specialized court, but have reservations about a court of this nature without the appropriate services and foundation elements in place. In the course of preliminary discussions on specialized courts, the judiciary expressed a desire to focus on a wellness court, which would have a broader focus than mental health. The Justice Department is working with other social program departments to consider how a specialized court may be part of a broader social

response to a range of health and wellness issues. It must be kept in mind that the courts are independent of the executive (GNWT departments/boards) and legislative (Legislative Assembly) branches of government. It is therefore essential that the judiciary be involved in work examining the feasibility of this initiative. *Ultimately it is the judiciary that will make the determination on whether an alternative court is established, given their critical role and the need to respect their independence.* Their assessment will require reliable information including that gained through the work of the interdepartmental committee. The committee is examining the feasibility of a specialized court as well as considering ways to improve collaboration between departments and agencies for service delivery.

Once the feasibility study has been completed, and depending on its results, a work plan may be prepared reflecting the next steps involved in the implementation of a specialized court in the NWT. This would be shared with the Standing Committee on Social Programs upon its completion.

The guiding mission is to determine the feasibility of a specialized court. A specialized court will ultimately improve the lives of people with wellness needs, assist judicial decision-making and enhance public safety by improving the provision of services and supports for residents with mental illness or addictions who are, or are at risk of, becoming involved in the justice system (Adapted from Middlesex Mental Health Court).

	Components	Expected Outcome	Deliverables	Timeline	Lead
Goal: To determine a feasibility study of an NWT Specialized Court					
Objective: Mobilize partners and stakeholders with a vested interest in improving the provision of services and supports for residents with mental illness or addictions, who are, or are at risk of, becoming involved in the justice system	Consult with partners and stakeholders to develop a shared understanding of the need for a specialized court	A shared consensus among partners of the aims and objectives of a specialized court	An agreement to move forward with a feasibility study of an NWT specialized court	June 2012	Social Envelope Deputy Ministers Committee & Interdepartmental Committee
	Consult with partners and stakeholders to determine the fundamentals of a specialized court	To have an increased understanding of specialized courts	Review Workplan and draft an outline of the components of a feasibility study of a specialized court	September to October 2012	Interdepartmental Working Group
	Consult with partners and stakeholders to come up with techniques that enhance front-line service providers' abilities to work together across departments and agencies to better address the complex needs of such vulnerable	A better understanding of what structures and supports that will enhance front-line service providers ability to work together – streamlining services	A report on best practices of working together inter-departmentally including Justice, Health and Social Services (HSS), Executive and others identified (i.e. How can departments support a specialized court)	October to December 2012	Interdepartmental Working Group

Note: Timeline and Lead(s) are subject to change.

	Components	Expected Outcome	Deliverables	Timeline	Lead
	populations				
Goal: To complete a research scan of specialized courts					
Objective: To research specialized courts as well as progressive alternatives cross-jurisdictionally that has proven to reduce the likelihood of further offences by offenders with mental health, addictions or FASD issues.	Consult with other jurisdictions to determine best practices Integrated Case Management approaches	Improved understanding of existing specialized courts Improved understanding of how a specialized court works Improved understanding of what resources are needed to support a specialized court Improved understanding of expectations in terms of service delivery	Completed literature review of specialized court models i.e. ACT Model; Rehabilitation Model; Personal Strengths Model	September to December 2012	Interdepartmental Committee & Interdepartmental Working Group
	Legislation Scan	To identify pertinent legislation that informs a specialized court	A report on current legislation that supports a specialized court as well as gaps	January to march 2013	Interdepartmental Working Group
	Consult with partners and stakeholders to determine what programs/services exist in the community to support a specialized court	A clearer view of existing programs and/or service gaps that may or may not be available to support a specialized court	A thorough report on current programs, services, and the capacity of these existing programs to support a specialized court or lack of	September 2012 to March 2013	Interdepartmental Working Group

Note: Timeline and Lead(s) are subject to change.

	Components	Expected Outcome	Deliverables	Timeline	Lead
	Consult with partners and stakeholders to determine human services (Staff availability); specialized positions; capacity	A better understanding of the human resources that are needed to support/implement a specialized court	A report on the status of human services needed and/or available to support a specialized court	September 2012 to March 2013	Interdepartmental Committee & Interdepartmental Working Group
	Financial analysis	A better understanding of cost/funding sources and budgeting	A report synthesizing costs associated with a specialized court vs. other alternative program(s)	September 2012 to March 2013	Courts CJ P&P Finance
	Explore specialized courts including alternative options i.e. enhanced diversion programs	A better understanding of what a specialized court requires as opposed to alternative options	A literature review of specialized courts including the ability to adapt/modify to meet the needs of the NWT	January to March 2013	Interdepartmental Committee & Interdepartmental Working Group
Goal: Analyze research findings					
Objective: Analyze research and summarize findings to determine the feasibility of an NWT specialized court	Recommendations of the feasibility – complete with models of program delivery	A better understanding of a court model that will fit best within the NWT	Recommendation(s) of a specialized court model and/or program that will fit best within the NWT	January to March 2013	Interdepartmental Committee & Interdepartmental Working Group
	Develop an evaluation plan that will determine the success of the model	A clear evaluation process to determine the success of such a program in the NWT	An evaluation framework that will record and monitor the success and/or need for	January to March 2013	Interdepartmental Working Group

Note: Timeline and Lead(s) are subject to change.

	Components	Expected Outcome	Deliverables	Timeline	Lead
			modification of the court		
	Develop a work plan of next steps/best practices of how to implement a specialized court in the NWT	A clear way forward if decision is to proceed with a specialized court	A strategic work-plan of the implementation process	March 2013	TBA

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