FACT SHEET

Mandatory and Coerced Treatment

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This fact sheet examining the issue of mandatory and coerced treatment was prepared by Ms. Rebecca Mugford, Research Assistant, and Dr. John Weekes, Senior Research Analyst, Canadian Centre on Substance Abuse (CCSA). It is intended to give a current, evidence-based overview of the issues.

Overview of mandatory and coerced treatment

- Mandatory or compulsory treatment refers to the legislated forced confinement (non-criminal) or civil commitment of individuals for assessment or treatment of their substance abuse problems.
- Mandatory treatment has received much attention in Canada recently largely in connection with concerns by governments, other agencies and organizations, and parent groups over perceived high rates of substance use in the general population. These concerns focus particularly on youth and their involvement with specific drugs such as methamphetamine.
- Coerced treatment refers to the delivery of substance abuse treatment services to individuals who are either reluctant or refuse to enter treatment unless they risk losing something important to them. For a single mother, it may be the thought of losing custody of her children; others may respond to a spouse's threat to leave unless the problem is addressed. In such cases, personal choice remains part of the process since the person can still refuse to attend treatment. Forced attendance and participation, on the other hand, are usually the hallmarks of mandatory treatment.

Mandatory treatment in Canada

- Over the course of the 20th century in Canada, civil commitment or custody for treatment were used to varying degrees depending on the changing perceptions of the political and medical communities with respect to the necessity to incarcerate or confine "habitual users" and serious "addicts" to deal appropriately with their behaviour.[i]
- In 1978, British Columbia undertook one of Canada's first mandatory treatment initiatives, with the passing of the *Heroin Treatment Act*.[1] Under this Act, heroin-addicted individuals who were unwilling to enter treatment were forced to take part in an intensive government-funded heroin treatment program. The Act was repealed,[2] but was upheld on appeal to the Supreme Court of Canada.[3]
- In 1996, a pregnant Aboriginal woman with a history of solvent abuse was ordered by a Winnipeg judge to undergo treatment. This court decision raised a number of gender-specific issues regarding the use of the legal system to mandate treatment, including the risk that pregnant women who use and misuse substances might not use the health care system (including important pre-natal health care) in order to avoid detection..[4]

[i] For an in-depth discussion of the history of this and related issues in Canada, see Giffen, P.J., Endicott, S., & Lambert, S. (1991). *Panic and indifference: The politics of Canada's drug laws*. Ottawa: Canadian Centre on Substance Abuse.

- Alberta's *Protection of Children Abusing Drugs Act*, which comes into effect July 1, 2006, requires persons under 18 with an apparent alcohol or other drug problem to participate, with or without their agreement, in an assessment and subsequent outpatient treatment or in a program within a "protective safe house".[5]
- Legislation passed late in 2005 in Saskatchewan (the *Youth Drug Detoxification and Stabilization Act*) will allow for the apprehension and detainment against their will of persons under 18 for assessment, detoxification, and stabilization of substance abuse problems.[6] The Act will be proclaimed once a new facility and regulations are in place (currently targeted for spring, 2006).

Current issues

- Not all individuals who consume alcohol and other drugs have a substance abuse problem or ever will. Decisions about the need for treatment must be based on a validated and standardized assessment process that considers problems related to use and not simply use itself. This is especially important in the context of mandatory and coercive treatment regimes when so much hangs in the balance for the client.
- Varying degrees of coercion are often used with individuals who have problems with alcohol and other drugs. Such individuals may once have been described as being "in denial". However, recent developments in the areas of problem recognition and motivation suggest that many of them may not realize that their behaviour is a problem or may fear embarrassment and stigmatization.[7]
- Although controversial, some form of compulsory treatment may be necessary to get some individuals to begin addressing their alcohol and other drug problems.[8] However, there is no research that clearly identifies and differentiates these individuals from others who do not need this type of approach to start the treatment process.
- Mandatory treatment strategies run contrary to recent developments in substance abuse treatment, including harm reduction approaches. Harm reduction is founded on the notion of offering participants choices and options for their treatment, while recognizing that many individuals with substance abuse problems may not be willing or able to stop using drugs. In such cases, it is important to "meet them where they are" in order to gradually reduce high-risk and harmful behaviours.[9]
- Forcing individuals to undergo treatment for substance abuse may be seen as violating their civil liberties. In Canada, this could result in legal challenges under the *Canadian Charter of Rights and Freedoms*.[10]
- There may also be issues of professional ethics for treatment providers who deliver assessment and treatment services to clients who are mandated to attend treatment. For example, the *Canadian Code of Ethics for Psychologists* requires psychologists to recognize the self-determination and personal liberty of the clients whom they serve.[11] Treating clients on an involuntary basis may place licensed psychologists and other professionals in violation of this code.
- Other ethical issues for human service providers involved in mandatory or coerced treatment may involve potential breaches of client confidentiality when legal and court-appointed case management authorities enter into the treatment process (similar dilemmas can be found in criminal justice contexts).[12]
- Currently in Canada, it appears that the use of mandatory and coercive approaches requires a legal or quasi-legal framework (as if the person is being managed by the criminal justice system) to address problematic social and public health issues that do not involve illegal or criminal behaviour by an individual.[13]
- Extensive implementation of mandatory treatment initiatives would place a significant additional strain on existing treatment resources, resulting in even longer waiting lists for individuals seeking treatment.[ii] Notwithstanding the conceptual and ethical issues outlined above, a significant investment in fiscal resources would be needed in order to accommodate the influx of treatment participants.

[ii] Currently, the substance abuse treatment system in Canada cannot meet all the needs of individuals with problems.

Effectiveness of mandatory, coerced and voluntary treatment

- There are relatively few published studies specifically examining the effectiveness of mandatory treatment.
- A 1970s evaluation of a U.S. civil commitment drug treatment program (California Civil Addict Program) examined the effectiveness of methadone maintenance treatment programs for those who entered the program under high, moderate or no legal coercion. There was no significant difference in outcomes for the three groups, suggesting that the regime under which individuals entered treatment had no impact.[14]
- A 2001 international longitudinal study of cases involving civil commitment of individuals with alcohol problems indicated that the health of the clients who had undergone treatment had improved overall and was, on average, superior to other clients undergoing treatment at the same facility at other times.[15]
- A lot of research shows that coerced treatment can achieve significant reductions in substance use and related behaviours (for example, with criminal justice clients). Indeed, there are many published studies of prison-based (coerced) treatment programs that clearly show a positive outcome, including substance abuse treatment programs delivered to federal prisoners in Canada, who received treatment while in custody and follow up treatment and maintenance sessions in the community after release.[16, 17]
- Although it is often thought that individuals mandated or coerced into substance abuse treatment are less successful than those who enter voluntarily, evidence suggests that treatment can have a positive effect on a person's substance use behaviour despite being coerced to participate.[18] However, this conclusion is largely based on evidence from coercive treatment regimes and not from mandated treatment settings.
- Studies have also identified client motivation as having a substantial effect on program retention rates and outcomes.[19,20,21] One such study found that internal motivation was a better predictor of retention rates and client engagement in treatment than legal motivation.[22] Many corrections-based programs (coerced) now include pre-program "readiness" or motivational components to enhance participants' intrinsic motivation to engage in and benefit from the treatment process.
- The modern clinical technique known as "motivational interviewing" evolved in reaction to overt confrontation and coercive treatment approaches. However, on close examination this effective, non-directive and person-centred approach can be viewed as being subtly "coercive" in the way clients engage in self-confrontation through a non-threatening therapeutic exchange and dialogue with the therapist.[23]

Endnotes

[1] Heroin Treatment Act, c. 24. Province of British Columbia, 1978.
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[3] Schneider v. British Columbia, Supreme Court of Canada, December 17, 1982.
[4] Dell, C.A., & Beauchamp, T. (2006). *Youth volatile solvent abuse: Frequently asked questions*. Ottawa: Canadian Centre on Substance Abuse.
[5] *Protection of Children Abusing Drugs Act, B-202*. Province of Alberta. www.assembly.ab.ca/lais/bills/2005/bill-202.doc
[6] *Youth Drug Detoxification and Stabilization Act*, Province of Saskatchewan. www.canadalegal.com/gosite.asp?s=146
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The Canadian Centre on Substance Abuse (CCSA), Canada's national addictions agency, was established in 1988 by an Act of Parliament. CCSA provides a national focus for efforts to reduce health, social and economic harm associated with substance abuse and addictions.

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