

Remoteness and its impact on the potential for mental health initiatives in criminal courts in Nunavut, Canada

Priscilla Ferrazzi ^{*} and Terry Krupa^a

^aFaculty of Health Sciences, School of Rehabilitation Therapy, Queen's University, Kingston, Canada

ABSTRACT

Remoteness in the isolated communities of Nunavut, Canada adversely affects access to mental health services. Mental health initiatives in criminal courts exist in many cities to offer healthcare alternatives to regular criminal court processing for people affected by mental illness. These initiatives do not exist in Nunavut. A qualitative multiple-case study in 3 Nunavut communities involving 55 semi-structured interviews and 3 focus groups explored perceptions by health, justice and community stakeholders of the potential for criminal court mental health initiatives in the territory. Findings suggest remoteness is perceived to hinder mental healthcare support for court responses to people affected by mental illness, creating delay in psychiatric assessments and treatment. While communication technologies, such as tele-mental health, are considered an effective solution by most health professionals, many justice-sector participants are sceptical because of perceived limits to accessibility, reliability and therapeutic value. These perceptions suggest remoteness is a significant hurdle facing future criminal court mental health initiatives in Nunavut. Additionally, remoteness is viewed as affecting decisions by lawyers to bypass legislated mental health avenues, possibly resulting in more people with mental illness facing criminal justice sanctions without assessment and treatment.

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Introduction

Remote geography contributes significantly to challenges affecting healthcare delivery in the communities of Canada's North [1]. In the Canadian Arctic territory of Nunavut, none of the 25 mainly Inuit communities – scattered across a territory of 2 million km² – are accessible by road. These and other Indigenous northern communities are affected by a general lack of adequate infrastructure and face chronic shortages of healthcare personnel [2–4]. Remoteness is described as among the factors adversely affecting performance on health system indicators such as avoidable deaths from either preventable and/or treatable causes, with the North generally faring worse than Canada as a whole [5]. While the North has the highest per capita health expenditures in Canada, the region reports poorer health outcomes than the rest of the country, especially among Indigenous people [6].

Arctic remoteness contributes to a general scarcity and frequent lack of accessibility to psychiatric resources and professionals across the territory [7]. Access to mental healthcare in Nunavut is typically limited to local health centres staffed by nurses who are supported by

community health representatives and visits by general physicians and psychiatrists travelling to the region several times each year. This is augmented by consultations with psychiatrists and other mental health professionals at mental health centres in the South [8]. Across circumpolar regions, youth mental health is considered to be affected by historical forced settlement, land dispossession and residential schools [9]. In the Canadian Arctic, these effects are exacerbated by persistent social inequalities in education, income and health [10].

Communication technology initiatives in Nunavut – principally the Ikajuruti Inungnik Ungasiktumi Network Nunavut Telehealth Project – have been implemented since 2003 to overcome issues of remoteness in delivering health services to isolated communities [11], facilitating consultations with health professionals in southern Canada. Tele-mental health is increasingly used to provide psychiatric services to northern and remote regions generally [12] and is widely considered cost-effective and efficient [13]. In Nunavut, for example, a 2011 pilot programme to provide videoconferencing psychiatric consultation to mental health professionals in remote communities suggests the approach was efficient, cost-effective and

CONTACT Priscilla Ferrazzi  ferrazzi@ualberta.ca  Faculty of Rehabilitation Medicine, Department of Occupational Therapy, University of Alberta, Edmonton, Canada

^{*}Current affiliation: Faculty of Rehabilitation Medicine, Department of Occupational Therapy, University of Alberta, Edmonton, Canada

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user-friendly [14]. Telehealth technology is generally available in local health centres throughout Nunavut.

Criminal court mental health initiatives include mental health courts, pre-arrest/pre-plea mental health diversion and post-plea mental health diversion programmes. These initiatives emphasise voluntary access to community mental health treatment at various points in the criminal justice process. They can facilitate treatment as an alternative to prosecution and jail [15]. Criminal court mental health initiatives made their appearance in Canada and elsewhere as a response to increasing numbers of people affected by mental illness in the justice system. While these initiatives vary in their structure and processes, they share in common a focus on psychiatric treatment [16] and mental health rehabilitation. Rehabilitation efforts aim to improve social functioning and quality of life while reducing criminal justice involvement [17]. Criminal court mental health initiatives improve measures of mental health and well-being, such as indices of addiction severity, behavioural and psychiatric rating scales, post-court psychiatric service use, and education and job outcomes [18–20]. While Nunavut criminal courts engage in statutorily prescribed fitness [21] and criminal responsibility [22] proceedings integral to many criminal court mental health initiatives, they do not offer the expanded mental healthcare services that are central to these initiatives elsewhere in Canada and internationally.

The problem of disproportionate numbers of people with mental illness arrested, prosecuted and imprisoned persists [23,24]. Mental illness among Canadian federal inmates is up to 3 times as common as in the population at large [25]. Meanwhile, access to mental health treatment in prison is often limited or unavailable [12,26]. For Canada's Inuit, these realities are exacerbated by social inequalities in education, income and health that result in the proportion of Inuit in the federal prison population being 10 times greater than in the wider Canadian population [27].

In 2015, the Government of Nunavut expressed interest in establishing a criminal court mental initiative in the form of a "Wellness Court" [28]. This is in keeping with the recommendations of the Mental Health Commission of Canada which called for making criminal court mental health initiatives more available throughout the country as an appropriate response to the large numbers of people with mental illness in the justice system [12]. The Government of Nunavut recently began preliminary plans for a 1-year pilot of a therapeutic court programme in Cambridge Bay in the Kitikmeot Region (M. Marcotte and L. Tootoo, Department of Justice, Government of Nunavut, personal communication 27 July 2018). This and future criminal court mental health initiatives may

be important in Nunavut where the court system plays a key "down-stream" healthcare role for people affected by mental health and addiction issues [7].

The theoretical foundation of criminal court mental health initiatives is therapeutic jurisprudence (TJ) [29]. TJ assesses the impact of the law on individuals' emotional and psychological well-being [30]. That is, it recognises the law and its application has therapeutic and anti-therapeutic consequences, and it advocates for maximising the former while minimising the latter without subordinating other legal values [31,32]. In their review of TJ literature, Ferrazzi and Krupa [29] conclude that TJ advances 3 key principles, namely the need for a *therapeutic response* (i.e. a focus must be on the enhanced well-being of an offender, the integration of treatment services with judicial case processing and judicial supervision), the response must be *interdisciplinary/multidisciplinary* (i.e. the therapeutic response is guided by health and social sciences and includes collaboration with community organisations and government) and the response *cannot trump other values* (i.e. other legal values are paramount including due process, predictability in the law and community safety). Their review also identified specific goals and objectives associated with these 3 key TJ principles. A total of 18 literature-derived objectives were identified [29] (Table 1).

This research uses the 3 principles of TJ, and their associated 18 objectives, to explore how geographic remoteness is perceived to affect the potential for criminal court mental health initiatives in Nunavut. The study examines perceptions by key health, justice and community stakeholders concerning the likely impacts of remoteness as well as the potential role of remote communication technologies.

Table 1. Eighteen objectives of therapeutic jurisprudence in criminal courts.

| | |
|----|---|
| 1 | Identification, screening and assessment |
| 2 | Treatment and therapeutic services available to the courts |
| 3 | Judge and offender interaction |
| 4 | Voluntariness of participation |
| 5 | Recidivism as therapeutic indicator |
| 6 | Symptoms and psychosocial functioning |
| 7 | Education professionals and stakeholders |
| 8 | Collaboration (within justice sector) |
| 9 | Collaboration (among social services, health and community organisations) |
| 10 | Collaboration (between court – and social services, health and community organisations and community members) |
| 11 | Information sharing |
| 12 | Legal incentive |
| 13 | Social service and health accountability to court |
| 14 | Specific and accepted programme |
| 15 | Court assessment of social service and health delivery |
| 16 | Community responsibility |
| 17 | Court revisits individualised treatment plans |
| 18 | Court responsibility for monitoring outcomes |

Methods

The study involved 3 communities with different health and justice resource capacities and relative remoteness. Iqaluit, Arviat and Qikiqtarjuaq represented high, medium and low capacities, respectively. Capacity, for purposes of research site selection, was premised on population size, and most apparent mental health and justice infrastructure (i.e. health clinics, police and court services). Remoteness was based on notions of ease and availability of fly-in access to these communities.

Iqaluit (pop. 6,699; Statistics Canada, 2011) is the territorial capital and is located in the Baffin Region of the Eastern Arctic. It has the greatest concentration of Nunavut's health and justice resources including an accredited 35-bed acute care hospital and the Nunavut Court of Justice which operates every day of the week. *Arviat* (pop. 2,318; Statistics Canada, 2011) is a hamlet located on the western shore of the Hudson Bay in the Kivalliq Region. Health services include a health centre with 6–8 nurses and a few social service and wellness staff as well as fly-in professionals who visit the community on an occasional basis. On the justice side, Arviat has a 4-member Royal Canadian Mounted Police (RCMP) detachment, a probation officer, a justice of the peace and a community justice committee. It is visited by a fly-in court 4 times a year. *Qikiqtarjuaq* (pop. 520; Statistics Canada, 2011) is on an island off of the east coast of Baffin Island. Its health services include a health centre with 2 nurse practitioners, a social worker and visiting professionals. It has a 2-member RCMP detachment, a justice of the peace and a community justice committee. The Nunavut Court of Justice flies into Qikiqtarjuaq only 3 times a year.

A total of 55 semi-structured interviews were conducted by the principal investigator (first author) in 2013 with the assistance of Inuit research assistants and Inuktitut-speaking interpreters as needed. Recruitment of participants reflected purposeful sampling. Interviews were generally held in community organisation facilities, government offices, at the Nunavut Research Institute, and on occasion in peoples' homes. Forty-eight interviews were audio-recorded and transcribed verbatim by certified court reporters and 7 interviews were recorded using field notes. The principal investigator returned to participants to confirm that a summary of their raw interview data reflected their intended meaning in circumstances where interviews involved interpreters, where participants struggled with the English language and where interviews were recorded using field notes. Interviews involved the justice sector (e.g. judges, defence lawyers, prosecutors and police), the health

sector (e.g. psychiatrists and nurses), community organisations (e.g. hamlet officials and members of Inuit organisations) and community members (e.g. elders and carers of people affected by mental illness). Among the total interviews, 13 were with "fly-in" participants (e.g. judges, defence lawyers, prosecutors and psychiatrists) who service Iqaluit and the rest of the territory by plane and play critical health and justice roles not otherwise available in outlying communities. As these fly-in interviews were relevant to all 3 communities, they comprised a component of the data for each. Accordingly, a total of 26 interviews comprised the data for Iqaluit, while 27 interviews represented data from Arviat, and 28 interviews comprised data from Qikiqtarjuaq. Additionally, a focus group, comprising long-time community residents, was held in each of the 3 communities.

TJ was enlisted in this study as a methodological guide [33]. The 3 key literature-derived principles of TJ were aligned with their respective goals and objectives to create a logical framework. In this way, the review of the literature provided a cascade of general-to-more-specific requirements of criminal court mental health initiatives. Satisfying the identified 18 objectives therefore satisfies the TJ principles. TJ provided the "concepts and analytic focus" used in this study to guide "ways of asking questions" (Gibson & Brown, 2009, p. 31, 33). Questions aimed to elicit information about whether the 18 objectives could be met in the context of 3 Nunavut communities given 3 propositions of relevance to the territory, namely (1) constrained local resources, (2) remote geography and (3) Inuit cultural considerations. The TJ-informed deductive approach to the study was complemented by an inductive process that reflected the opinion and experiences of participants' *vis-a-vis* the study's framework and 3 propositions. The integration of the deductive/inductive approaches was reflected in the coding structure and analysis of this study [29]. That is, similar segments of text were explored, ordered and arranged within categories and sub-categories that related to the 18 objectives of the TJ framework and the 3 propositions. Themes were then developed from these categories and sub-categories [29,33]. Data analysis was assisted by *NVivo 10* qualitative software [34]. Permission to conduct this study was granted by the Research Ethics Board of Queen's University in Canada. This research was also licenced by the Nunavut Research Institute in accordance with the *Scientists Act* [35].

This article reports on the study's findings with respect to remote geography and the potential for criminal court mental health initiatives in Nunavut. This study is informed by the principal investigator's experience as a prosecutor in Nunavut and elsewhere in Canada. This perspective assumes that criminal courts have a place in

offering “down-stream” mental health services as a rehabilitative response to justice-involved Inuit affected by mental illness in Canada’s Arctic. The findings should be interpreted in this light.

Results

Three TJ objectives from among the 18 introduced during participant interviews dominated discussions concerning the potential for mental health initiatives in Nunavut criminal courts. These were (1) identification, screening and assessment of people with mental illness (Iqaluit, 21; Arviat, 24; and Qikiqtarjuaq, 27 interviews), (2) treatment and therapeutic services (Iqaluit, 22; Arviat, 20; and Qikiqtarjuaq, 24 interviews) and (3) collaboration between the courts and other players (Iqaluit, 19; Arviat, 19; and Qikiqtarjuaq, 22 interviews). Seven common themes across communities emerged from discussions of the 3 objectives.

Despite need, a lack of available psychiatrists affects assessments and treatment

Study participants (17 interviews; 31%) described a perception that the number of people affected by mental health issues in Nunavut is growing: Said one justice sector participant: “Mental illness ... seems to be going through the roof”. This phenomenon was seen as particularly prevalent in the context of criminal courts: “There are so many people within the criminal justice system who have serious mental health issues – who need an assessment”, said another justice participant.

Meanwhile, the lack of forensic psychiatrists in Nunavut was seen as making assessments of mental health conditions and treatment possibilities challenging. Interview participants also said adding a single resident psychiatrist in the future was unlikely to solve the problem: “No – well, virtually no community in southern Canada can manage with one psychiatrist. It’s too overwhelming”, said a health professional, and the prospect of a psychiatric team was deemed not viable. Meanwhile, help from fly-in psychiatrists was described as periodic and hampered by geography, size of the territory and weather: “If you’re only sort of sending in a team once in a while – periodically – you’re going to get a lot of undiagnosed people”, said one participant. Another said: “It’s really hard to find professionals outside of the jurisdiction that have the time to fly into a community like Arviat, which takes two days of travel minimum. And then one day to assess the individuals, and then two days of travel back to their home”. Several participants said court-ordered assessments (for fitness or criminal responsibility determinations) were often so delayed that they failed to

meet *Criminal Code* statutory deadlines: “You know, most of these assessments have a 30-day or 60-day time limitation on them, and quite frankly, the psychiatrists who we use in the south have their schedules booked a year in advance”. Out-of-custody assessments can take anywhere from 6 months to over a year in Nunavut or don’t happen at all, they said.

Limited language interpretation services (for assisting psychiatrists in communities) were also seen as a challenge: Participants said that the availability of interpretation in some communities is limited to 1 legal interpreter at any given time, and psychiatrists risk being left with no interpreter at all: “It has happened. ... You’re paying five days of per diems for a doctor to travel in there, and you end up with nothing at the end of the day”.

Consequent delays in mental health assessments were seen as risking more charges, more jail and stress for people affected by mental illness in conflict with the law

Delays in psychiatric assessments were perceived by numerous justice participants as leading to greater jeopardy. People in custody were said to spend more time waiting for an assessment than if they had been sentenced in the usual course. Meanwhile, those out of custody awaiting assessments were considered vulnerable to reoffending, sometimes due to limited community support. Said one participant: “The timeframe in getting an assessment done is so long that if the individual was in custody they would spend a much longer period of time than they would if the matter was simply dealt with. Plus, it would possibly have significant impact on them should they attract further charges”. Another participant said: “And you know, defence does get quite cautious whenever you raise it [assessment] with them because it can mean that a guy will languish somewhere without anything ever being done”. Meanwhile, several community member participants pointed to court-related delays generally, as generating stress that has sometimes contributed to suicide by accused people: “I’ve experienced that myself, losing a person to suicide because of the delayed charges through the court and that’s a concern”, said one community participant.

Remoteness also affects availability of other treatment support, including case management and continuity of care

“We don’t have the proper mental health supports in Nunavut, period, and it’s sort of this black hole. ...

Nobody knows what to do with mental health issues here”, said one participant. Numerous participants said people with mental illness often go untreated in the territory, including in the criminal justice system: “I know a number of schizophrenics in [one community] who are completely untreated”, said one justice participant. “... They are coming in and they are talking to me, you know, delusional, completely delusional”. A lack of treatment facilities for mental health and addictions throughout the territory was seen as a reason: “There’s not one drug addiction treatment program, there’s not one rehabilitation program operating in Nunavut”, said a community organisation member. “They depend on a program run by a small Inuit organization in Ottawa for most of their treatment of alcohol and drug addictions. There’s no follow-up in Nunavut”. The shortage was seen as contributing to problems with continuity of care and adequate case management for people affected by mental illness. One health professional said: “So, it is not prudent to have a psychiatrist come twice a year for a client population of 308 active clients”. Meanwhile, a move to centralise many community-based probation services to the capital of Iqaluit (underway at the time of the interviews) was perceived by some participants as reducing supervision and support for people affected by mental health issues with infrequent contact made by telephone only. A number of participants perceived remoteness to limit collaboration with communities in any prospective criminal court mental health initiative. The intermittent nature of visits to the communities by the fly-in court was also seen as a challenge to relationship building between the court and communities: Said one justice participant: “So basically, from my perspective, the Court flies in, doles out justice for three days and flies out and you see them again in five months. There is no ongoing relationship. But that’s always been a problem here. I don’t know if it’s possible [collaboration], given how remote all the communities are”.

One consequence of remoteness is that the need for mental health treatment is perceived as synonymous with removal from the community

Intensive mental health treatment was considered by many participants to be only available outside of local communities and often only available in southern Canada: “The reality of mental health in our territory [is that] if you have somebody in your family with mental health, they’re leaving the jurisdiction”, said one participant. Another said, “I think that people who have mental illness issues and have started to intersect with the criminal system are people who have ceased to be able to be managed by their local resources”. As a

consequence, people with mental illness treated elsewhere often experience hardship, especially if treatment is outside of Nunavut: “So there’s a reluctance to admit [mental illness] because they don’t want their child leaving for treatment ... to go somewhere to take foreign meds, to talk to foreign people, where they have no culture, no country food”. “It’s hard when I talk to all the staff at the hospitals down there”, said one lawyer. “And I say, ‘Is he speaking to people in Inuktitut? Is he having communication with his family?’ And a lot of times they say, ‘No, we don’t have that available. No, we can’t arrange that.’ ... It’s a pretty alienating experience. It’s hard to imagine people coming back and being well”.

Communication technology for mental health assessments and treatment was seen by health sector participants as a potential solution to many problems associated with remoteness

Several health professionals suggested communication technologies, such as telehealth systems in local community health centres, are “good for diagnosis and treatment” but generally underutilised. One key health professional said videoconferencing technology is now used to assess fitness to stand trial in Nunavut and that the viability of a future criminal court mental health initiative lies in its expanded use: “I think, at the end of the day, you’re going to be running this court all around the Arctic from one base in Iqaluit by video conference... That’s got to probably happen so that you have enough volume”.

Many in the justice sector, however, expressed scepticism about communication technology in court contexts because of poor access, a lack of reliability and questionable therapeutic value

Despite a general endorsement of technology by several health sector participants, a number of justice participants expressed concern that the control of information technologies lies beyond the reach of Nunavut Court of Justice with a government department thereby limiting court access. Dependence on community health centres for access to telehealth was also said to create uncertainty for legal proceedings: “The facilities are usually just the health centres in the community, and they’re very small”, said one justice participant, describing recurring issues. “So you can’t get very many people in. And then the other problem is that if a medical emergency arises, then of course you’re pre-empted”.

Many in the justice sector also believe communication technology is functionally unreliable: Video conferencing “is always problematic: losing connections, dropping connections. ‘We can see you, we can’t hear you. We can hear you, we can’t see you.’” Another said: “It seems to be quite inconsistent in terms of the ability to function properly. ... Often there’s delays; there’s sun-spots; there’s all kinds of problems that arise. ... In the future, we’ll start to take more advantage of the technology, but it has to catch up in terms of making it much more functional and user-friendly, because right now it isn’t”.

Several justice participants also questioned the therapeutic value of communication technology: “My experience with video conferencing is that it’s not a really satisfactory process”, said one justice participant. “I am not a psychiatrist. I don’t know what a psychiatrist’s experience here would be. But, as an outside observer, I would be surprised that anyone who used it for assessment purposes would be very satisfied. The resolution is not very good, and the sound quality is not very good. So if the assessor is making assessments based on, among other things, responsiveness, body language, openness, I think that’s very hard to do”. Said another: “I think that Inuit people keep a lot of things inside. ... And so, when somebody’s conducting an interview, I think developing that personal relationship doesn’t happen over the video link or over the telephone”, as it would in person.

Perceived issues arising from remoteness and doubts regarding remote technologies currently limit therapeutic options for people affected by mental illness in the context of criminal court

Several justice sector participants (six interviews; 11%) described how many people affected by moderate or less serious mental illness often fall through the cracks because of delays related to remoteness: “A lot of them don’t get diagnosed”, said one. “It’s the most extreme ones that do, from my experience. A lot of the moderate ones never do”. Other justice participants said mental health avenues legally available to lawyers such as fitness and criminal responsibility proceedings are sometimes bypassed by them in favour of regular court processing to avoid uncertainty and long waits. “So, you know, these people are waiting for their hearings forever and for assessments”, said one justice sector participant. “There are so many issues. And it’s just a huge backlog”. Lawyers were described as avoiding fitness and criminal responsibility assessments because the mental health review board that monitors these cases is, like the courts, also affected by remoteness-relevant delay. “Now the lawyers are trying to avoid referring people to the board if at all

possible”, the participant said, “because they know they will get caught up in this. ... They are getting caught up in this system”. Unless the person poses a danger, many avoid the review board altogether.

Discussion

Criminal court mental health initiatives – a practical manifestation of TJ theory – do not exist in Nunavut. The study’s findings reveal that participant interviews about the potential for mental health initiatives in Nunavut’s criminal courts focused primarily on 3 of 18 objectives of TJ principles, namely (1) identification, screening and assessment of people with mental illness; (2) treatment and (3) collaboration. Participants discussed these objectives and the role of remote geography in responding to people affected by mental illness in ways that align with the general view of Canadian rural and remote healthcare that “[t]he farther away the community is, the worse the health status of the population” [36]. Generally, scarce and often inaccessible mental health resources in Nunavut have been described as a key reason the justice system is “too often the first stop for troubled people who do not have access to care” [7]. Meanwhile, people affected by mental illness in the justice system in Nunavut result in high costs to affected individuals, families and communities as well as to society at large (average daily inmate costs in the territory were 2–3 times higher than most other Canadian provinces and territories in 2013–14) [37]. The impacts of remoteness on potential efforts to address these issues are seen as multifaceted.

Remoteness is seen as delaying assessments of mental health condition and treatment

The findings of this study suggest the absence of a resident forensic psychiatrist in the territory, the infrequent and weather-dependent nature of psychiatric visits from the South, and the limited availability of interpreters in communities to assist visiting psychiatrists, are viewed as key remoteness-related reasons for delays in court-related assessments of mental condition and treatment. Among the perceived consequences of this situation revealed by participant interviews are that (1) people in the community affected by mental illness intersecting with the law risk accumulating additional charges while they await assessments; (2) people in custody risk spending more time awaiting assessments than if they had been sentenced in the usual course; (3) people affected by mental illness are unlikely to get effective case management in the court process to ensure access to timely assessments, treatment and continuity of care; and (4) justice-involved people affected

by mental illness are likely to hesitate choosing a therapeutic option instead of conventional court proceedings because of the apprehension that they will have to travel out of the community or territory to southern Canada for treatment. The fear that people labelled as mentally ill risk being taken from the community appears to be deep-seated among many Inuit [29] and aligns with other literature showing a reluctance by Inuit to seek medical help generally, because of past experiences of forced dislocation to southern tuberculosis sanatoria and residential schools [38]. Indeed, the practice of being flown south for treatment by physicians or medical specialists persists [39].

Remoteness is seen as affecting choices relating to mental health avenues in criminal court

Importantly, some justice participants warned that remoteness-related lack of access to psychiatric services already affects defence lawyer decision-making about whether or not to raise the issue of mental illness in court. In cases where this is pursued, participants said that it contributes to delays that exceed timelines permitted by law. The Canadian *Criminal Code* allows legal proceedings to determine if an accused person is mentally “unfit to stand trial” or “not criminally responsible” due to mental disorder, but these are circumscribed by strict time periods [40]. Some participants suggested these avenues are less likely to be pursued in Nunavut because of the likelihood that delays will further jeopardise a person’s liberty, mental health and legal status (e.g. by resulting in further charges). Delays affecting mental-health-related court procedures caused by a shortage of forensic psychiatric resources have been frequently decried by judges in other Canadian jurisdictions, and in the 2014 Ontario case of *R. v. Conception*, the Supreme Court of Canada said (in remarks aside from the main judgement in the case) that exceptional delay in treatment was a potential violation of a person’s rights under the *Canadian Charter of Rights and Freedoms* [41]. Yet, while this delay is an acknowledged widespread problem in Canada, participants in this study suggested that geographic remoteness and its consequences for Nunavut communities was behind extraordinary delays responsible for a greater potential for missed therapeutic opportunities, limiting any potential for success by criminal court mental health initiatives.

The justice sector is sceptical of remote technologies in psychiatric service delivery

Communication technologies, such as tele-mental health, received divided opinions as a potential solution to remoteness-related lack of access to psychiatric services in the context of criminal courts. The positive response of several

healthcare participants regarding these technologies reflects research showing tele-mental health is generally effective for assessment and diagnosis for many populations in a variety of settings and appears comparable to in-person care [42]. Tele-mental healthcare has also been shown to be largely effective for mental health diagnoses, can improve continuity and quality of care, is viewed positively by patients and consulting professionals and can reduce costs in some circumstances (see reviews) [42–44]. This technology has been used in justice-related settings [45]. The technologies are also considered both useful and easy to use by mental health professionals in rural and remote Canadian Indigenous communities [46]. A First Nations study suggests that when mental health professionals are informed of the benefits of tele-mental health, and are trained in its use, they are more likely to use it [46]. In an Inuit context, tele-mental health is considered effective for psychiatric consultation (between professionals) that builds capacity among frontline workers in Nunavut [14].

Many defence lawyers, prosecutors and judges, on the other hand, expressed concern about the poor access and lack of reliability (i.e. perceived ease of use) and, especially, the questionable therapeutic value (i.e. perceived usefulness) of communication technologies in Nunavut communities. Their concerns reflect familiar criticisms. For instance, opponents of these technologies argue the non-traditional approach cannot adequately replicate healthcare (following an in-person examination) [43]. Issues of confidentiality have also been described as “one of the most important concerns providers must address” [43]. And justice sector concerns about the technology’s limited availability and poor reliability aligns with research suggesting the approach is technologically intensive [44]. This clear contrast between justice sector perceptions of remote mental health communication technologies and those of the health and scientific community presents a clear challenge to the adoption of these technologies as a solution to remoteness in the context of potential criminal court mental health initiatives. As Gibson and colleagues [46] point out, user satisfaction and the acceptability of the technology are keys to success for telehealth approaches. For instance, the Technology Acceptance Model uses perceived usefulness and perceived ease of use as key predictors of technology use and of user satisfaction with it [47]. Meeting the challenges posed by justice sector perceptions, in particular, may require efforts to ensure all potential technology users are educated about their known benefits.

The study has limitations

This study, which was a structural first step for developing a therapeutic court response to people affected

by mental illness in Nunavut, primarily engaged participants who would be involved in the delivery of these initiatives. While an inclusion of people with mental illness may have added an informative dimension, the feasibility of speaking with justice-involved people with mental illness, and constrained time and resources, was such that this was not possible within the scope of this study. Interviews with carers of people affected by mental illness provided some insight.

Conclusion

Criminal court mental health initiatives and the therapeutic aims of TJ offer Nunavut courts the potential for a rehabilitation-oriented response to people affected by mental illness. Results from this research, however, suggest that remoteness – a profound reality in Nunavut's Arctic communities – is considered by many justice, health and community stakeholders as both an existing challenge to criminal court responses to people affected by mental illness and a significant consideration in potential efforts to introduce criminal court mental health initiatives in the territory. Indeed, perceptions of remoteness-related impacts, including delay, and scepticism by the justice sector about remote technologies are affecting decisions by lawyers that, even now, reduce the likelihood that accused people affected by mental illness will pursue mental health avenues prescribed by law and therapeutic options over regular court processing. That is, more people with mental illness may be facing criminal sanctions without assessment and treatment. Efforts to change the current circumstance are needed before criminal court mental health initiatives in the territory are likely to succeed. More research is needed to understand the root of these perceptions and approaches to ameliorate them. This work would go a long way to understanding what needs to be done to mitigate geographic remoteness as a factor affecting the potential for criminal court mental health initiatives in Nunavut.

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ORCID

Priscilla Ferrazzi  <http://orcid.org/0000-0002-6801-0999>

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