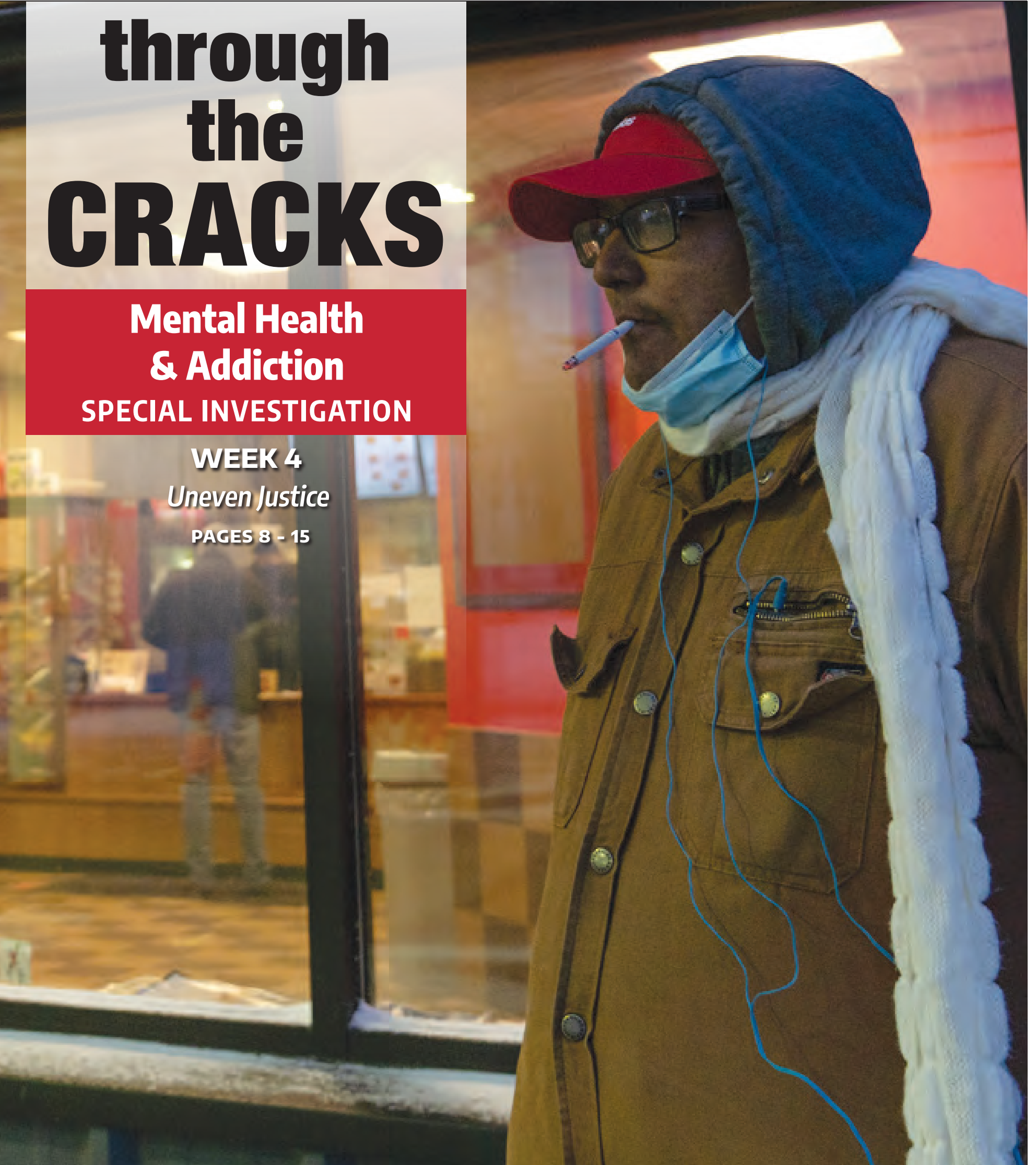


through the CRACKS

**Mental Health
& Addiction**
SPECIAL INVESTIGATION

WEEK 4
Uneven Justice
PAGES 8 - 15



Jason Sark was out of prison for seven months when he learned that the crown had successfully appealed his sentence. Sark was never notified of the appeal. PEI's Court of Appeal eventually threw out the extended sentence, calling the lack of notice a miscarriage of justice. John Morris Photography



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Who will apologize to Jason Sark?

By Paul MacNeill

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Jason Sark had just cashed a \$465 welfare cheque at Scotiabank at the corner of Great George and Grafton Streets. He had plans to attend a sweat lodge and was looking forward to the promise of a couple of days' work at an upcoming Native Council of PEI retreat on Panmure Island. He was having a good day.

But like much of his life, calm suddenly became chaos.

Two sheriff's officers were waiting to take him into custody as he stepped out of the bank. They were acting on the order of the Prince Edward Island Court of Appeal, which unintentionally picked national Orange Shirt Day - a day of remembrance to raise awareness of the effects and legacy of residential schools - to send an Aboriginal man back to jail for a crime he had already served time for.

Tami Strickland was stunned. As outreach worker for Bedford MacDonald House, she worked for months to help Sark with the slow process of gaining sobriety, building confidence and dealing with a lifetime of abuse, mental health and addiction and being in the wrong place at the wrong time.

Sark was getting there. He participated in BMH outings to fish, play softball or bake bread and showed increased enthusiasm for his aboriginal culture. He respected his fellow residents and the rules that then manager Mike Redmond placed on him. After five months living at BMH he had earned a transition housing unit, a private room in a six-bedroom rooming house. It was a place to call his own.

The positive momentum growing in Sark's often tumultuous life evaporated as he and Strickland asked on what grounds he was being arrested.

Sark had been released from Sleepy Hollow Correction Centre seven months earlier after serving seven months of a nine-month sentence on a single count of robbery. From everything he knew, his time was served. There seemed no logic to the arrest warrant and officers did not elaborate, saying simply Sark, 41, needed to go with them.

Sark placed a gentle hand on his support worker's shoulder and said 'Don't worry I'll go, I'll go.'

Strickland will always remember the moment for the calm and gentle nature Sark displayed, but also because it is the moment a miscarriage of justice started to unravel.

A life where violence was normal

Jason Sark is easy to vilify if the only gauge are headlines from his many run-ins with the



Jason Sark thought he had served his time for a robbery conviction. But after being free for seven months he was sent back to jail following a successful appeal of his sentence. No one ever told Sark about the appeal. PEI's Court of Appeal called the lack of notice a miscarriage of justice, but no one has apologized for it. Photo by John Morris Photography

“

The fundamental purpose of sentencing is to protect society and to contribute ... to respect for the law and maintenance of a just, peaceful and safe society.

”

JUSTICE MICHELE MURPHY

law, dating back to 1999. His record includes more than 50 offenses of varying severity including a five-year federal sentence for attempted murder in 2007, and a slew of convictions for assault, assault causing bodily harm, assault with a weapon and aggravated assault.

But Sark is more than the sum total of his rap sheet. His life is influenced by numerous seminal moments: An abusive and violent Lennox Island home where his mother did her best to shield him from his father; racism within the education system; intergenerational impact of residential and Indian day schools; First Nations politics and where, how and to whom services are offered; and a justice system stubbornly clinging to how things have always been done.

Jason first experienced violence at 2.5 years of age when he stepped in the middle of his father assaulting his mother. His father grabbed his son and threw him toward the wall. Only the

quick reflexes of his mother kept the toddler from crashing into the wall with full force.

Sark's parents' marriage disintegrated because of addiction and violence, but his father continued to show up at their home, often in a foul mood. It led to an unpredictable existence for Jason, his mother and siblings. They moved around, couch surfed and ended up in Charlottetown, but reluctantly returned to Lennox Island, on the advice of a doctor, to access health care for the children.

Sark completed Grade 6 at John J. Sark Memorial School. Lennox Island students travel 35-kilometres each way to attend Hernewood Intermediate or Westisle Composite High School. For many it is a jarring experience. He experimented with drugs in junior high and got drunk for the first time at 13. It escalated at Westisle where he used marijuana, oil and hash. He was frequently intoxicated in school and drank a lot on week-

ends. He was the target of teasing and bullying, often finding himself on the defensive and in fights.

For Jason Sark, violence was a learned behaviour.

Sark disengaged academically, quit school at 18 in Grade 12 and followed a path of growing addiction during which he subsisted through seasonal or short-term work. While incarcerated in 2001 he earned his GED, later enrolling in UPEI and Holland College, although receiving no course credits. He enjoys reading and learning, but on his own terms.

After serving a five-year federal sentence for attempted murder in 2007, he suffered a drug overdose in Moncton.

An early morning robbery

The Fitzroy Street Parkade was quiet when Sark and two companions entered at 2:30 am on August 31, 2019. The men were

intoxicated. Video surveillance shows that one of Sark's companions struck the other on the head. Sark then kicked the downed man four times in the head and punched him once. The two men stole the third man's wallet and phone and fled. The victim suffered a cut lip and required \$1,300 in dental work.

Sark was charged with a single count of robbery. He pled guilty and appeared before Provincial Court Judge John Douglas for sentencing January 28, 2020. The Mi'kmaq Confederacy of PEI prepared a Gladue Report, a document mandated by the Supreme Court of Canada to allow 'the courts to explore alternatives to imprisonment, especially as it relates to the unique circumstances of Aboriginal offenders.'

"There is a need for Jason to engage in an intensive mental health and substance abuse treatment program as well as a program to address his criminality and criminal offending," the

“

Jason's substance abuse is more complex than just a personal shortcoming.

**JASON SARK'S
GLADUE REPORT**

”

29-page report states. “Jason's substance abuse is more complex than just a personal shortcoming.” It acknowledged his potential for violence when under the influence.

Judge Douglas leaned on the report's insights in sentencing Sark to nine months in jail plus 18-months probation. The judge warned that if the victim's injuries were more serious, Sark would be facing far greater punishment.

February 7, 2020 the Crown launched an appeal. It sent notice to Charlottetown lawyer Conor Mullin, who had represented Sark at trial. Mullin was not authorized by Sark to represent him at appeal, so the lawyer sent the notice back to Legal Aid. Several days later, Legal Aid asked Mullin to represent Sark. He agreed.

But no one told Jason Sark or asked if he agreed.

To protect society

The appeal proceeded and was heard June 23, 2020 before Justices John Mitchell, David Jenkins and Michele Murphy. By the time the court got around to rendering its decision on September 30 Sark had been out of jail for seven months and was still unaware his freedom was at stake.

In a 17-page decision written by Justice Murphy, and agreed to by Justices Jenkins and Mitchell, the court increased Sark's sentence to two years (less credit for nine months served), followed by two years probation.

Justice Murphy made clear deterrent, and the defendant's lengthy criminal record, trumped Gladue. “The fundamental purpose of sentencing is to protect society and to contribute ... to respect for the law and maintenance of a just, peaceful and safe society,” Justice Murphy wrote. The Court agreed with the Crown that the original sentence was “demonstrably unfit, clearly unreasonable and inadequate in the circumstances.”

The decision makes only passing reference to Sark's diagnosis years earlier of schizophrenia. It does suggest he meet with the Native Council ‘for a referral to address mental health issue.’

Jason Sark returned to serve an additional 15 months.

Justice but no apology

It was January 15, 2021 by the time PEI's judicial system finally

got around to righting the wrong inflicted on Sark, at the time still in Sleepy Hollow serving out his extended sentence.

The same three justices who increased Sark's sentence now threw that decision out. In a five-page ruling Justice John Mitchell called the lack of notice a miscarriage of justice.

“The impact of the failure to give proper notice to Sark can be seen by the fact that he lost the right to retain counsel of his choosing, the right to assistance of the Mi'kmaq Confederacy, the right to instruct counsel, the right to attend the appeal hearing and hear the Crown's case and the right to make representations.”

Neither the court, nor anyone else in authority, apologized to Sark or mentioned the progress he made through Bedford MacDonald House during his seven months of freedom. Justice Mitchell did absolve the Crown of any error: “I pause to point out that the Crown's actions are unimpeachable. They were entitled to accept counsel's word that he was accepting service on Sark's behalf. That, however, does not rectify the fact that Sark had no notice.”

This is of little solace to Sark. When eventually released he was unable to turn back the clock and start his life again from the relatively positive position it had taken. The Graphic met him at 6:30 am on a brutally cold minus 22-degree Celsius March 2, 2021. He was huddled inside a Needs Convenience, getting warm from a night spent walking the streets. He bought a couple of packaged pastries for breakfast, which he admits is probably not a good idea for his diabetes.

Part of Sark's previous success was attributable to Redmond's understanding that he suffered from night terrors. Forcing him to follow a similar schedule to other BMH clients wouldn't work; he let him sleep much of the day and roam at night.

But Redmond set firm rules around Sark's interaction with staff, other residents, and drug use. There were times, Redmond says, when Sark, 5'10" and 260 pounds, was less than perfect, but he never broke the rules established. He was never violent. “Mike's been there for me ever since we first met,” Sark says in a soft voice.

Bedford MacDonald House is a shadow of what it was two years ago when it provided 24-hour service. Redmond and Strickland were fired by Salvation Army, which bristled at their activist style of client management. BMH now only operates 12 hours per day. There are no more fishing trips, ball games or outings at all. Food is limited and clients are mandated when to be in bed, when to get up and when to leave in the morning.

Sark has lived in transitional housing at Smith Lodge in Charlottetown for almost a year, with a goal once again of moving to independent housing. Redmond says it's not enough.

“A lack of a comprehensive mental health and addictions plan leaves this man in a very broken, and sick system,” he says. “From Jason's time wrongfully incarcerated to his present living situation, there has been a systemic failure to accept responsibility for Jason Sark. No apology from justice, from MCPEI, and simply dumped on the street.”

Who will apologize to Jason Sark?

“

Restorative justice is about restoring peace in our community, not (just) out on reserve.

LISA COOPER

”

Uneven justice

Favouritism and lack of consistency impact benefit of Gladue Reports

By Rachel Collier

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In an attempt to reduce over-representation of Indigenous people in Canadian jails, the Criminal Code of Canada was amended in 1996 to give judges authority in sentencing to consider the unique set of life circumstance faced by Indigenous accused.

But 26 years later that authority is delivered unevenly by the courts.

“Gladue is not a get out of jail free card. It was never meant to be used as a get out of jail free,” says Lori St-Onge, former executive director of the Mi'kmaq Confederacy of PEI, and former director of Indigenous Justice.

“It's meant to be able to look at what are the systemic factors that brought the person to the court today, and what we need to do to address those factors and help them on their healing,” she said. Since her interview with The Graphic, St-Onge was named Acting Director of Indigenous Relations for the province.

St-Onge said some Island judges understand and apply the Gladue principle well; they replace time behind bars with in-community restorative options. Others seem to get caught up on the need to prioritize denunciation and deterrence principles.

“It's not about that. It's not about using Indigenous people to set examples,” said St-Onge. “We have to continually educate and help them understand what it means to apply the principles.”

Gladue Reports are detailed narratives that share the individual's life story and establish connections to histories of discrimination and intergenerational trauma. It may also include alternative, often Indigenous-led sentencing recommendations. These could include mandatory participation in mental health and addictions programming, housing programs, community justice programs or healing programs.

Indigenous people make up approximately 2 per cent of the Island population, but

based on the most recent Statistics Canada data from 2020 3.4 per cent of the provincial inmate population.

Lisa Cooper, chief of the Native Council of PEI, believes the issue is greater than judges not properly applying Gladue principles. She sees favouritism in the provincial government's funding of report writers through MCPEI but not Native Council.

Gladue reports are incredibly personal, requiring interviews with friends and family members about the most intimate, often traumatizing, aspects of an individual's life.

For this reason, Cooper says, it's important that a writer with a relationship of trust, from the accused's chosen Indigenous community, produce the report. Over 1,000 Indigenous people living in PEI are less connected to the traditional First Nations bands represented by the Mi'kmaq Confederacy and are instead members of the Native Council.

However, when MCPEI-produced Gladue Reports suggest alternative sentences, they almost always neglect NCEI programs as an option. This bias is due to the political divide that has grown between the two organizations over decades, Cooper says.

“Restorative justice is about restoring peace in our community, not (just) out on reserve.”

Both organizations should be empowered to allow Indigenous people the ability to choose the organization best suited to represent and work with them, she says.

The chief has requested the King government sign a Memorandum of Agreement, similar to one in place with the Mi'kmaq Confederacy, for the Native Council to produce Gladue Reports. She also wants equality in provincial funding for a court worker program. Government funds MCPEI's program, but not the Native Council.

With no promise of provincial support the Native Council has found other means to fund one court worker who can write Gladue Reports but Cooper says there is a need for more than one worker considering the great need to provide her members adequate access to justice.

A case of resources

Therapeutic court could work, but not at expense of health care

By Paul MacNeill
and Rachel Collier

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PEI's judicial system

wants to be part of any effort to improve how those with mental health and addiction are treated by the courts. But Chief Judge Jeff Lantz says any effort to create alternate forms of justice cannot be seen to remove already limited resources from health care.

"I know they've talked about therapeutic courts in the past," Judge Lantz said in a rare interview, "and we've explored those with them. I've been down that road before several times with domestic violence courts. They've never panned out because, again, its resources and health are stretched thin enough," he said.

The idea of establishing a therapeutic court was first raised provincially a decade ago and re-emerged early last year when Justice Minister Bloyce Thompson said the concept is once again under consideration. The announcement was made after the release of records showing a marked increase in the rate of female incarceration in the province.

PEI is the only province in Canada without some form of therapeutic court.

The traditional justice system often struggles with the complex needs of an accused living with mental illness or substance abuse. Conviction and incarceration can exacerbate any pre-existing issue. This is where therapeutic courts come in, by allowing eligible individuals to transfer their case out of the traditional justice stream.

Nova Scotia is one province that has adopted the concept.

The Wellness Court - previously Nova Scotia Mental Health Court Program - started in Dartmouth in 2009, with locations now throughout the province.

Wellness Courts are "problem-solving courts, where a team of professionals helps treat the issues contributing to the individual coming into conflict with the law. These issues may include mental illness, substance abuse, or gambling." For instance, in Dartmouth there is a Mental Health Court Program, Drug Court Program and Alcohol Court Program as components of the Wellness Court. It is administered by staff of Mental Health and Addictions of Nova Scotia Health Authority as well as other government and community organizations.

These support teams work with the individual to identify the reasons for coming into conflict with the law. The process is collaborative, not adversarial like the traditional justice system, with the goal of creating a sup-

port plan unique to the needs of the individual.

To be accepted into Wellness Court programming, an individual must take responsibility for their actions and be diagnosed with mental illness or addiction. If an individual successfully completes programming the criminal charges are removed.

In his 16-plus years on the bench, Judge Lantz has seen a 'gradual shift' in the prevalence of cases driven by mental health and addiction. "Things seem to be getting more severe for addiction, as do some of the mental health problems. It seems to be getting worse today, just anecdotally."

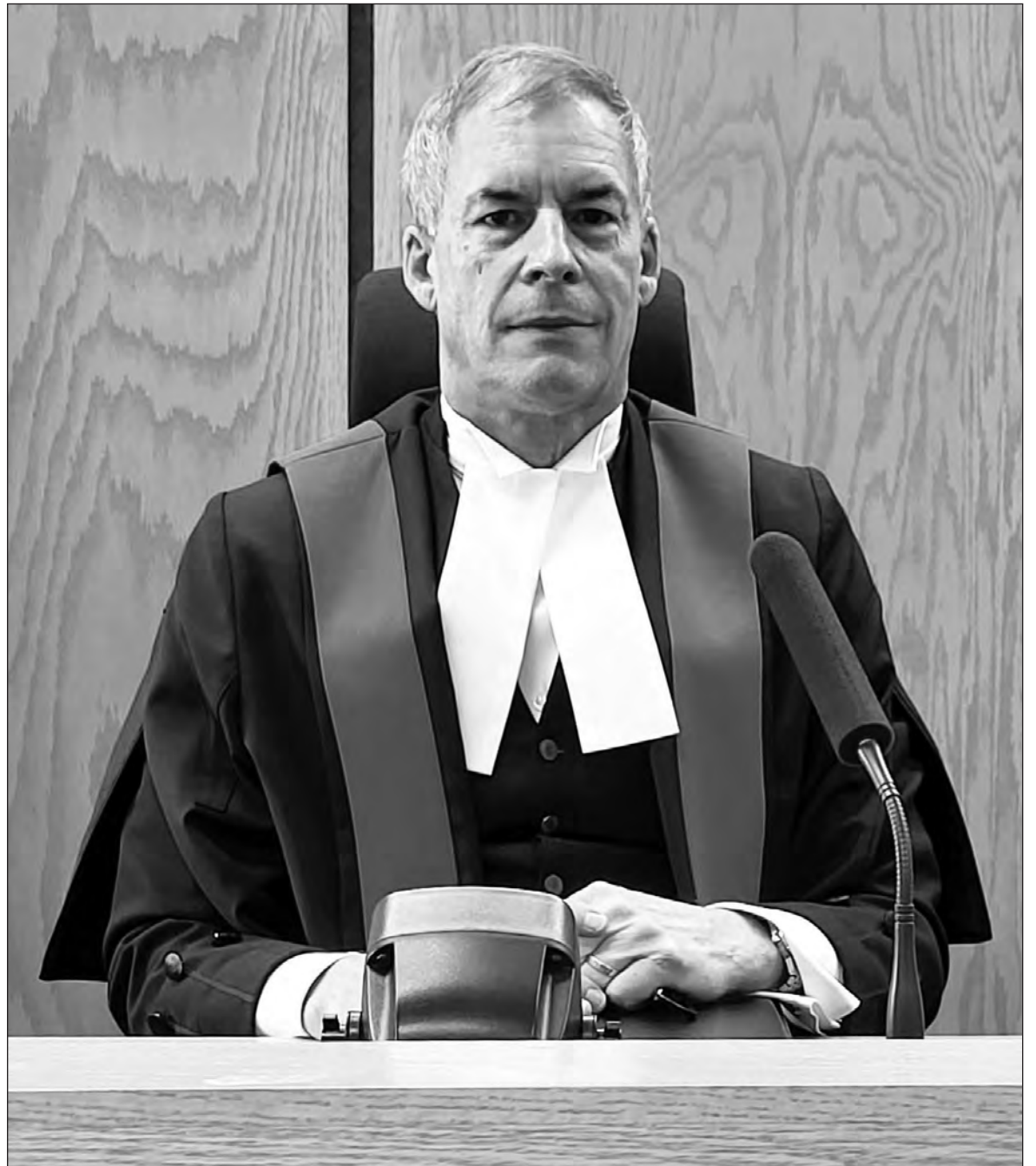
There is no doubt a large percentage of individuals jailed at the Provincial Correctional Centre are impacted by mental health and/or addiction, yet it is not information government routinely collects. This despite the propensity of courts to sentence people to jail for seemingly less serious offences. Fully 68 per cent of the 517 convicted in 2019-2020 were jailed for 30 days or less.

When The Graphic first requested data from the Department of Justice and Public Safety it responded: "Correctional staff can confirm that a great majority were either under the influence of one or more substances when committing the crime or they were committing crimes to support substance abuse or addiction behaviours."

When pressed for more specifics the department provided snapshot data from the Provincial Correctional Centre for a random day in March 2021. It shows:

- 10 of 11 female inmates and 55 of 82 male inmates in custody either self-declared or have a documented history of depression, anxiety, bipolar disorder, suicidal ideation/previous attempts, other psychiatric disorders or history of psychiatric admissions.
- 80-90 per cent of inmates have, or have had, addiction challenges
- Half of those incarcerated were under the influence when committing the offence. Half of this group were committing crimes to support their addiction
- Half are primarily opioid users
- 20-30 per cent are alcoholics
- 20 per cent use illicit drugs, such as cocaine, speed and crystal meth
- 47 per cent of all offenders in custody were previously incarcerated

Concerning other mental health issues, a snapshot of a random day the same month showed 65 of 93 inmates or 70



Provincial Court Chief Judge Jeff Lantz has seen a 'gradual shift' in the number of cases driven by mental health and addiction during his 16 years on the bench. Submitted photo

“There’s always been the stumbling point around health and their lack of resources, and taking more from them, when they can’t really afford it.”

JUDGE JEFF LANTZ

per cent, had a history of any of one or more of the following: depression, anxiety, bipolar disorder, suicidal ideation, previous attempts of suicide, other psychiatric disorders, history of psychiatric admissions.

While the national incarceration rate has been on a steady decline since 2015, PEI's rate is moving in the opposite direction, jumping 35 per cent over the same period. According to Statistics Canada data, the increase is largely attributable to a more than doubling of the remand rate. These are accused who are sent to jail, for various reasons, to await trial.

Judge Lantz appreciates the

potential importance of alternative systems, but says the court is already struggling to provide timely access to basic items like psychological assessments. The criminal code mandates an assessment must be completed within 30 days. If this is not possible a 30-day extension may be approved. But it is not uncommon to struggle to meet even the 60-day window. "There are resource issues, no doubt about it, and we work with what we've got."

Restorative justice is a success on PEI, but it does not require the level of professional care providers as does a therapeutic or similar court. "There's been

talk of it over the years, but there's always been the stumbling point around health and their lack of resources, and taking more from them, when they can't really afford it," Judge Lantz said.

"Government, if they want to get serious about doing something in justice on this stuff, they are going to have to come up with the money to give us the dedicated resources we need to make something like that work."

The standing government announced \$187,000 in the latest budget to "expedite" preliminary work in creation of a therapeutic court. No date has been set for implementation.

Native Council of PEI chief Lisa Cooper points to her grandmother in a residential school class photo. She knows Indigenous people don't leave behind the effects of trauma and intergenerational trauma when they leave the reserve, lose status due to fraught Indian Act Registry requirements or move to a different province.

Photo by John Morris Photography



NCPEI demands equity

Government's financial support to Mi'kmaq Confederacy dwarfs Native Council

By Rachel Collier

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The headquarters of the Native Council of PEI, 6 MacAulay Court in Charlottetown, is a modest building. If it was not surrounded by parking lots, industrial yards and public administration buildings, it might pass as a large bungalow or duplex in a suburb.

"We're busting at the seams," NCPEI Chief Lisa Cooper says. The council delivers more than 19 programs for just over 1,000 members from its headquarters, which includes a smaller space rented around the corner. Both locations are overflowing.

Offices on the top floor are chock-full. Makeshift work stations pour into the basement's open concept and encroach on programming and community gathering space.

One of the features Chief Cooper is most thankful for are showers near the staff kitchen.

"When you have somebody who was in a residential school, and they're homeless, they're not going to feel comfortable showering where there are people in place of power," she said. "Because of trauma they feel that they may be revictimized. They're not feeling safe to take that shower, but they could be removed from a shelter because of that."

Mental health and addiction support, housing support, tenant support, criminal justice support; the list of programs and services offered by the council is lengthy. The goal of all programs is to share and build culture by upholding and advocating for Indigenous rights.

To fully achieve this goal, Chief Cooper says it is essential the province stop ignoring NCPEI.

Government to government

There are specific Canadian legal requirements mandating the provincial government recognize, consult and sup-

port the Epekwitk Assembly of Councils. The assembly is comprised of council members of both Abegweit and Lennox Island First Nation. It oversees both the Mi'kmaq Confederacy, which delivers programming on behalf of the organization, and L'Nuey, whose mandate is to protect and advance treaty rights including negotiations, consultation and governance development.

Chief Cooper maintains it is Indigenous people's right - under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) - to choose their Indigenous governing body. She believes the provincial and federal government have practical, moral and possibly legal responsibility to treat the Native Council equitably.

The Native Council of PEI represents Mi'kmaq who prefer membership in the council rather than the traditional bands of Lennox Island or Abegweit. It also represents Indigenous people from other groups who are living on the Island, including Metis, Mohawk and Saulteaux. Additionally membership includes those who do not have legal First Nations status but have completed a rigorous membership process to confirm a strong relationship to Indigenous ancestry.

Built to impress

Three kilometres away from the Native Council office is a new 18,000-square-foot building that is owned by, and home to, Epekwitk Assembly of Councils' Mi'kmaq Confederacy and L'Nuey.

The striking state-of-the-art design incorporates circles and curves that feature prominently in Mi'kmaq culture. Glass windows bow out from a street-side like a turret, stretching up the building's three storeys.

The federal government invested over \$4.2 million into its construction, with the province adding \$2.2 million.

It is prime real estate. The legislative assembly is an easy 10-minute walk away and in a non-pandemic year more than 100,000 tourists will disembark cruise ships onto a dock that is essentially the

building's backyard.

In 2019 its construction was seen by Lennox Island and Abegweit band leadership as a stepping stone toward reconciliation, a demonstration of partnership with governments and a realization of a "long overdue presence for Mi'kmaq leadership in the capital city."

Chief Cooper believes the Confederacy's new home is a visible example of favoured government treatment toward NCPEI.

"The province is supporting the Confederacy and has made a financial investment in their location with no thought to NCPEI," she said. She wants the province to include NCPEI in future consultation processes.

Adding salt to the wound, were suggestions during construction that Mi'kmaq leadership had not previously been present in Charlottetown. It's a statement that ignores NCPEI has provided off-reserve Mi'kmaq leadership in the city for decades. The majority of NCPEI members are Mi'kmaq, including 384 from PEI. These are Mi'kmaq who associate by choice with the council or because they do not have status. As well, 385 members are Mi'kmaq but from other provinces.

The Confederacy is a union of Abegweit and Lennox Island First Nations band leadership. Members of traditional First Nations bands must qualify as Indians under the Indian Act, which is com-

monly criticized by human rights advocates, then apply to be accepted by the band. Ancestral connections to the local band can be a requirement for membership. Some services and support are only available to those living on reserve.

One of Cooper's main priorities, which would help to improve social determinants of health for members and Indigenous people across the Maritimes, is a land-based healing centre in Panmure Island. It would support those with mental health and addiction issues.

The project has stalled because the council secured only a 7-year lease for the ground on which the centre would be located. NCPEI wants the provincial government to grant it sole ownership of the land, or at minimum sign a 99-year lease.

The King government has not responded to the request - a reality that is commonplace.

The council has still not heard from the provincial government on a request, made more than a year ago, to fund a shelter for vulnerable populations. PEI has the fewest emergency shelter beds per capita in Canada and NCPEI did operate men's and women's shelters in Charlottetown.

See page 12

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The province is supporting the Confederacy and has made a financial investment in their location with no thought to NCPEI.

CHIEF LISA COOPER

”



Chief Lisa Cooper says communicating to the King government has been like shouting into a black hole. Photo by John Morris Photography

NCPEI

continued from page 11

They closed due to lack of funding in 2006 and 2012 respectively. It's estimated 25 per cent of people using emergency shelters in Charlottetown are Indigenous and NCPEI has a long and effective track record of providing on-the-ground support to the most vulnerable, including services not provided by MCPEI.

When government funding for the National Native Alcohol & Drug Abuse Program was discontinued, the provincial government refused to fund NCPEI's replacement program. The province also refused to fund the hiring of specialists to produce Gladue Reports for NCPEI members who find themselves facing criminal charges. It now funds a similar position for MCPEI.

Government provided a written statement when asked about the discrepancy in its treatment of NCPEI compared to MCPEI: "The work that NCPEI does is important as they support their off-reserve and non-status Indigenous membership through various programs and services. The province regularly works with multiple organizations, and provides them funding through different departments."

Audited 2019 financial statements show MCPEI received \$1.6 million from the province as well as \$8.1 million from various federal departments and agencies. Confederacy total revenues were \$11.5 million.

NCPEI's audited 2020 financial statement shows just \$58,500 in provincial funding and \$1.7 million from the federal government. The council's total revenue was \$2.2 million.

The discrepancy is striking when it's considered that about 1,000 of a total 2,700 Indigenous

Islanders are members of NCPEI, not MCPEI.

Chief Cooper appreciates what funding it has received and acknowledges government's promise to increase consultation. But the reality is NCPEI is treated differently. As an example, government funds the Mi'kmaq Confederacy to deliver a court worker program to Indigenous people Island-wide, regardless of status or location.

"We know our members and community best," she said, explaining that her members deserve a court worker they can trust in divulging sensitive Gladue Report information.

Lennox Island Chief Darlene Bernard says the Confederacy delivers programs focussed on justice, employment services, sports circles, and child and family services.

"The Mi'kmaq Confederacy has a 20-year history of successful service to the Mi'kmaq and other Indigenous individuals in PEI and the Lennox Island First Nation leadership is grateful for the recognition and continued support of the Province of PEI," she said in a statement released to the Graphic.

In 2016 the Supreme Court of Canada recognized Metis and non-status Indigenous people as Indian under the constitution and entitled to treatment 'substantively equal' to status Indians. NCPEI, along with one of the lawyers who worked on the precedent setting Supreme Court case, is considering an action to force equitable treatment from the PEI government.

"I think that if that day was to come, I would say shame on the province, shame on you for making us go that far," said Cooper.

“

It took a f..king toll on me like no one's business.

I bawled my eyes out for two days straight.

”

STEVE MACFARLANE

Grief support

DENIED

When his daughter died Steve MacFarlane grieved alone in Sleepy Hollow

By Rachel Collier

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Steve MacFarlane was serving a sentence at the Provincial Correctional Facility in Milton when his 28-year-old daughter passed away from pneumonia August 5, 2019.

The Kings County resident was offered medication to deal with depression and anxiety but did not receive the mental health counselling promised to him while in jail.

"The drugs made me feel numb or like nothing, which was good in a way," said MacFarlane. But beneath the numbing effect, he felt increasingly trapped. "I needed to talk to someone."

The intended function of Provincial Custody Programs, as stated on the PEI government website, is to provide safe and secure custody for offenders, programs that address factors which lead to criminal behaviour and to assist with the successful reintegration of offenders into the community.

MacFarlane, 51, says being denied access to a mental health professional is one of many examples he has experienced that highlight disparity between what supports are promised and what is

offered.

He says he walked out of jail less prepared to deal with day-to-day life than when he went in.

MacFarlane was serving a 16-month sentence in jail for committing sexual assault against his girlfriend at the time. He had previously been convicted for committing physical assault against a partner.

The Turning Point Program, an intimate partner violence intervention/counselling program for men involved in the criminal justice system, was not available while he was in custody, despite being ordered by the courts to complete. Nor was there access to a sexual deviance counsellor or an anger management program despite his requests for the services.

He ended up juggling court ordered programming with work fishing in Kings County as well as finding housing and trying to get his mental health back on track once he was on parole, in the community.

But, he says, the most difficult part, by far, was dealing with grief and mental health issues in jail without support.

"It took a f..king toll on me like no one's business," he said. "I bawled my eyes out for two days straight."

His daughter died at home from pneumonia,

Health issues faced by inmates in provincial jail

To prevent people with mental health and addiction issues from becoming involved in the criminal justice system, CAMH states, strong services, good housing, income support and addressing poverty are all crucial. Properly treating mental health and addiction can reduce crime.

Mental health or addiction issue

per cent

Have or have had addiction challenges	90
History of mental illness or disorder	70
Committed crime to support addiction	45
Primarily opioid user	45
Alcohol addiction	30
Use illicit drugs	20

This data is from a snapshot day of the Islands provincial inmate population, March 2021. Communications officers say data this day was not abnormal.

Table: Rachel Collier • Source: Department of Justice and Public Safety PEI • Created with Datawrapper

according to MacFarlane.

"My understanding is she fell asleep and just didn't wake up," he said.

MacFarlane and his daughter Jade were close. He had raised her on his own since she was 9. She only decided to move away from his home a few years prior.

"She was daddy's girl no matter what," said MacFarlane. "I wasn't there for her. I mean if I wasn't in jail, would I have been there to take her to the hospital or tell her to go?"

He had trouble sleeping. Lost his appetite. Migraines pounded for days on end.

"I'd say I had given up on life," he says. "Talking with someone could have made a big difference."

After reaching out to a nurse practitioner for help, she referred him to a professional.

"I still haven't seen that grief counsellor to this day," said MacFarlane who remained in jail for about five months after he was referred to the service.

Director of provincial correctional programs Shannon Ellis responded to MacFarlane's allegations.

"I can't really think of an example where that wouldn't be provided to him or where there wouldn't be some level of support to him," he said before adding, "I can't speak specifically to his case but I do know that it's (grief counselling is) available for people."

The Graphic assisted MacFarlane in requesting all jail and medical records during the period of his incarceration through the Freedom of Information and Protection of Privacy Act.

The records support his claim that he requested, but did not receive, grief counselling.

There is no record of him accessing anger management or the Turning Point Program while in custody.

"If I didn't get help after my daughter died, who is getting help?" MacFarlane questioned. He knows many people in provincial custody arrive with more mental health issues than he did.

The Department of Justice determined, based on a selected day from March 2021, that 80-90 per cent of inmates have, or have had, addiction challenges. Staff added this sample was not abnormal.

Similarly, 70 per cent have a history of any of one or more of the following: depression, anxiety, bipolar disorder, suicidal ideation, previous attempts at suicide, other psychiatric disorders, history of psychiatric admissions.

A mental health therapist works at Provincial Correctional Centre three days per week. Documents obtained through a Freedom of Information request by the Graphic indicate the therapist's caseload for 2021 totalled 147 inmates. Four-hundred individual counselling sessions were offered and 334 were completed. There were 674 admissions into custody during time-frame.

No records pertaining to group therapy sessions, including cognitive behavioural, dialectical behavioural, anger management, Alcohol Anonymous or Narcotics Anonymous, were included in the FOIPP release. The lack of documentation lends credence to claims from multiple inmates that neither Alcohol nor Narcotics Anonymous programs were available to prisoners.

Prior to the pandemic, Arie Hoogerbrugge offered chaplaincy service to inmates on a regular basis.

Hoogerbrugge has not been able to visit the jail for the past two years due to pandemic restrictions.

Educational services in jail have also been impacted. The education specialist role has been vacant since May, 2021.

With the easing of public health restrictions, clients of the correctional facility can expect the education program to resume as of the week of March 21.



Speaking from experience, Jamie Barrigan says offenders exiting custody need a solid place to land when they exit jail to reduce recidivism and relapse into addiction, the emergency shelter scene is not the best option. Rachel Collier photo

On their own

PEI is the only province without a halfway house

By Rachel Collier

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PEI is the only province in Canada without a halfway house to serve as a bridge between corrections institutions and successful reintegration into the community, despite a need identified by Corrections Services Canada.

The lack of what's termed a Community Residential Facility (CRF), means Islanders have limited options upon release.

Despite this, Minister of Social Development and Housing Brad Trivers says a halfway house is low on government's priority list because of the small number of individuals requiring the service.

Jamie Barrigan, 52, believes, from personal experience, there is a need.

In June of 2020 he broke into a home and stole \$153. At the time he was homeless after being evicted from the North River Motel, which was later demolished. Homelessness triggered a relapse of substance use disorder that he says factored into his "stupid" actions that day.

He was sentenced to 90 weekend days, 15 months of probation and 20 hours of community service. Because he had no fixed residence, he lived out of Bedford MacDonald House, an emergency men's shelter.

Today Barrigan is sober and in his own apartment at the Southport Motel. However, he wishes the system allowed easier access to a sober recovery house with addictions and employment counselling programming, similar to what is available

through other CRF. He says such a service would reduce recidivism.

Trivers says inmates can access transitional housing and rental properties through the John Howard Society. If an offender is mandated to receive residential treatment by the courts, Health PEI's three recovery houses are also prepared to assist.

If a residence is not available, a day parole arrangement with the corrections facility may be arranged, says a senior Correctional Service Canada communications officer. "However, this type of release comes with less structure than a release to a community residential facility."

John Howard Society supports inmates returning to the community with case management and access to housing. But the society has limited staff and funding and resources. Housing solutions are often limited to being added to a waitlist, according to frontline mental health and addictions staff and clients interviewed.

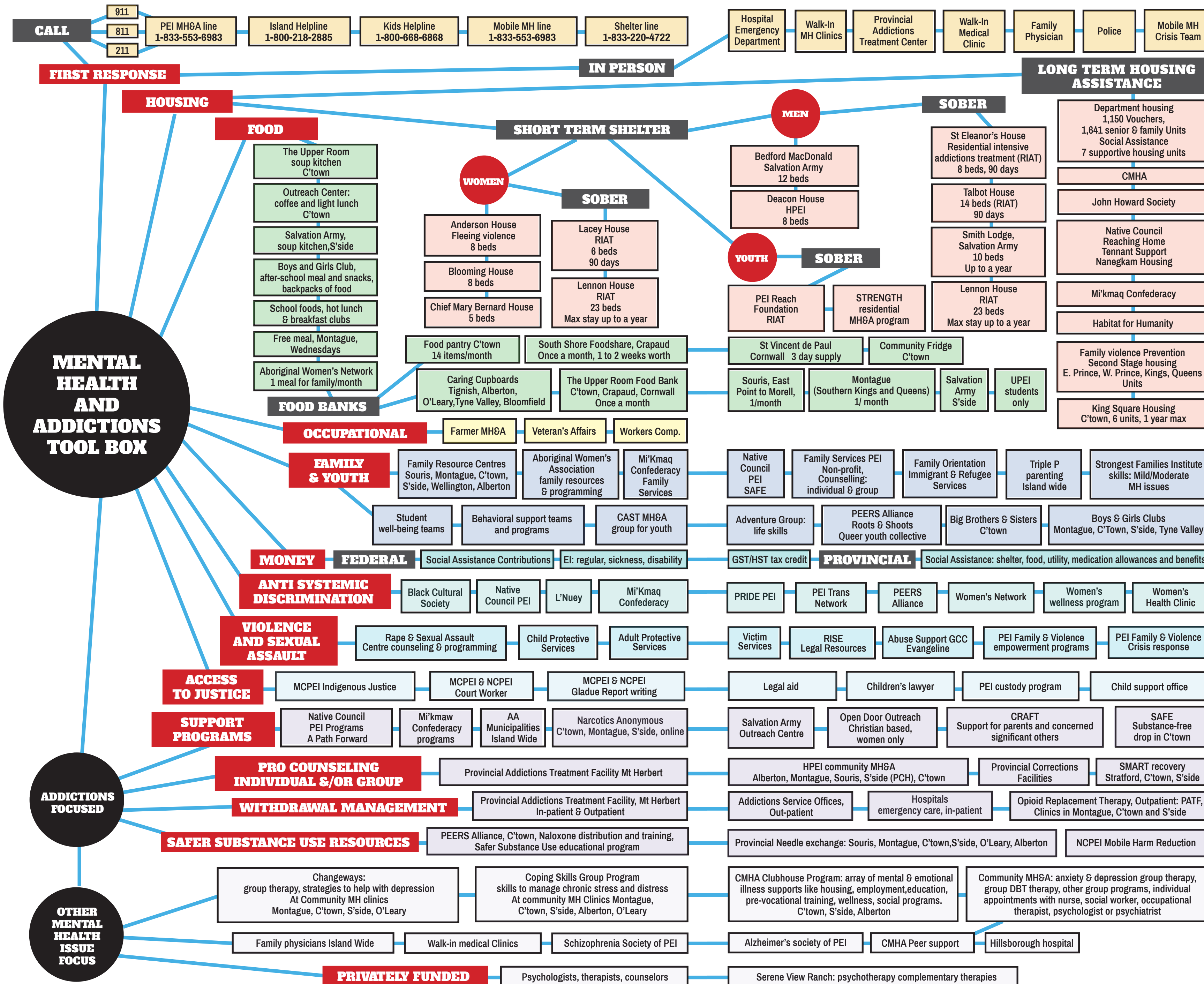
Inmates often leave custody with no plan and must rely on an emergency shelter, where a bed is not guaranteed. PEI has the lowest rate of emergency shelter beds in Canada.

When Correctional Services Canada identifies a need or projected need for CRF beds in an area, the government agency prepares a business case and presents it to local CRFs and organizations.

It has identified a need on PEI and more than a year ago began work with New Brunswick based halfway house operator, Atlantic Human Services, to potentially provide a solution here. The effort has stalled in part because finding the right location has proven difficult during a pandemic.

PEI's Maze-Like Mental Health and Addiction System

Created by Rachel Collier, Local Journalism Initiative Reporter



“ And here we are. ”

Logan Fisher



“ We shouldn't have to hide who we are or be ashamed of who we are. We don't want to stick a f..king needle in our veins. ”

Why a chart?

The map of service offerings pictured in the chart reflects the work of thousands of compassionate individuals, government departments and agencies, NGOs, religious and cultural institutions, built over decades to support those with mental illness, to promote positive mental health and to prevent and properly treat crises.

It also reflects a system that is incredibly hard to navigate, even for individuals with personal supports and capacity to find the right service. It reflects a system with service gaps, where accessibility is a major issue.

Through this project we have shed light on some of the cracks in the system and shared stories of the tragic consequences for an individual, their family, friends and society when one person is left behind.

We've interviewed dozens of clients and frontline workers, who have shown immense courage in telling their truth by speaking up despite the potential for personal or professional repercussions and fear of facing public stigma. They know the benefits and limitations of the system mapped out on these pages. Their insight and suggestions for change are invaluable.

This chart symbolizes the challenge that we have attempted to bring to life over the last four weeks. How do we as a province fill the gaps, so fewer Islanders slip through in the future?