DRAFT Data Analysis Report

Lanark County Community Justice

January 27, 2021

INTRODUCTION

This is a report to the board of LCCJ on performance analysis of data gathered from December 2012 to September 2020. This is LCCJ’s **first** Performance Analysis Report and there will be ongoing learning from the wealth of data available. We ask that board members carefully review this report and the attached analysis sheet. Determining what data we want to extract and analyze is a work in progress. We ask for the Board’s input in identifying what data and analysis needs clarity or is lacking.

Data input and analysis will occur at the end of each fiscal year. This will give us the ability to monitor both long and short-term performance and to identify trends.

**GENERAL ANALYSIS**

Refer to table: #1

The total number of cases that LCCJ has provided since 2012 is 342. Of the 342 cases 221 have gone to a restorative justice forum and 77 have come to an agreement without going to forum. There were 298 restorative justice agreements made. The primary reasons why a case would not go to forum but an agreement was made using restorative justice practices is the victim did not want to participate in person but wanted to provide input into the terms of the agreement, or a victim statement that was shared with the offender.

There are other less common reasons why a case would not go to forum and they are:

* The accused was re-charged with another crime before going to forum that was not a divertible offence and they are dealing with what will happen with the other charges.
* The accused is in a facility (eg. CHEO, Robert Smart Centre, Group Home, etc…)
* There are often changes in location of participants to other communities, so not feasible to attend.
* The accused, or the victim were not well enough to participate physically or mentally.
* And other.

Refer to Table: #2

Overall, 67% of cases in the last 7 years went to a restorative justice forum. However, it is important to note that in 2013/14 and 2014/15 and 2015/16 the percentage of cases going to forum were between 80% and 88%, which would indicate that there has been a significant decline in the number of cases going to forum since 2016. In 2016 some standards were created by MAG for the expectations in how long it should take to close the case from the time of referral to the time of case closure, with a target of 120 days. MAG also indicated that agencies would not be penalized for proceeding with a case without going to forum and was encouraging more flexibility in victim participation to close the case more quickly. More importantly, we have been seeing an escalation in the number of youth with severe mental health concerns, addiction and complex needs. Often these youth are not capable of participating in a restorative justice forum.

Background: On average over the seven years, 52% of youth cases went to forum and 15% of adult cases resulted in forums. Accordingly, youth cases are more likely to go to forum than adult cases. Youth cases are more likely to go to forum because victims are more willing to participate in the process to support the youth who is in conflict with the law. In the cases where the victim is also a youth, they may want to resume a relationship with the accused because they are in school together or same social circles. Furthermore, the parents may be strongly motivated to support their youth victim through the process as they have been significantly impacted by the wrongdoing.

The primary reason why adult cases often do not go to forum are the adult participants often have a longstanding relationship with each other where an incident, or a series of incidents occurred in the past (such as a neighbour dispute). These historical grievances amongst the adults often result very little interest in repairing the relationship and mostly concerned with monetary compensation and punishment. Often, the accused has been the victim in the past.

**Proposal**: LCCJ believes in the value of holding a restorative justice forum where the victim and offender are present as a community response to crime. We recognize that there are situations where that is not always possible or desirable, and we need to be respectful of the participants wishes and various circumstances. However, in the past LCCJ has demonstrated that it can bring more cases to forum and an increase of 10% to a target of 77% of cases going to forum seems like a reasonable target to achieve in non COVID circumstances.

Discussion: Joellen and Sheri feel that keeping a target of 67% (the current 7- year average) is more achievable given the increased complexity of clients.

Refer to table: #3

**Cases by Gender:**

Of the youth cases over the past 7 years, 83% were male and 17% were female. We are more likely to have male youth clients, than female youth clients.

Of the adult cases over the past 7 years, 77% were male and 23% were female. Not unlike the youth cases, we are more likely to have male clients than female clients.

There is some evidence that females are more likely to be a client, as an adult than as a youth. There was an 8% increase in the female portion of cases moving from youth to adult.

Refer to table: #4

**Referral Type:**

We are more likely to receive a pre-charge diversion from the police 55% for youth, than for adults 29%.

Accordingly, adults are more likely to come to our program from the Crown Attorney’s Office than the police. Police are less likely to consider pre-charge diversion for adults. Most of our adult cases come from the Crown Attorney’s office as a post charge. It is LCCJ’s experience from platoon visits that many police remain unaware that we take referrals for adults despite this being part of our presentations. Another factor may be the Criminal Justice Act for pre-charge diversion is not as strong of a directive, as the Youth Criminal Justice Act, where it is mandated that police consider diversion as an option before laying a youth charge.

Nevertheless, of all the youth cases the average number of pre-charge diversion over the past 7 years is only 55% and post charge youth crown referrals were 45% of our cases. When looking at the actual number of pre-charges they varied significantly from year to year, where some years were really high and others were really low. It was determined that when the years were significantly higher in pre-charges for both youth and adults, it coincided with platoon visits by staff to the police services.

Background: LCCJ believes in a community response to crime and less involvement of the traditional justice system. We would like the accused and the victim to have as little as possible involvement in the actual court process, as there are numerous appearances, delays, time taken away from education for the youth and time away from work for the parents/caregivers, and a general experience of the lack of accountability on the part of the accused and absence of victim’s input and communication in the courts. Most importantly we feel a restorative justice response to crime is more beneficial to the community and our clients. Our desire is to have more pre-charges for both youth and adults and less post-charges. Accordingly, we propose a target of an increase in 10% pre-charge cases to 65% for Youth and 39% for Adults.

**Proposal**: Education and networking with both police services in the course of platoon visits, on-line or in person is imperative to encouraging pre-charges. Anecdotally, the police have often indicted that they just have so much to do on the job that they forget to use our program. There is also some confusion about our program and the services that RNJ offers especially amongst the Smiths Falls Police Services. We propose a 10% increase in pre-charge cases to 65% youth and 39% adult.

Refer to table: #5

**Charge Type:**

On average over the 7 years LCCJ handled twice as many youth cases as adult cases (30 youth vs. 14 adult cases per year). On average data show that LCCJ handles a greater number of class two offenses for both youth and adults (65% class 2 vs 42% class 1 of youth cases; 66% class 2 vs 47% class 1 of adult cases. NOTE: percentages do not add to 100% because sometimes there was more than 1 charge type per case.

Overall, it is reasonable that LCCJ is more likely to receive more class two offences, than class one offences because LCCJ generally receives the more complicated and more serious cases where RNJ receives the cases that go to Extrajudicial Measures EJM and the Extrajudicial Sanctions, EJS cases youth where there is not a clear victim. In Adult cases, the Direct Accountability Program DAP receives a significant portion of the class one offences. There is also a mental health court diversion for both youth and adult diversion option. LCCJ on occasion shares these clients with RNJ mental health worker.

Refer to table: #6

**Case Duration:**

There are many cases that come to LCCJ that are sent back to the referring source in a short period of time less than 10 days or we have cases that go over 365 days. Such as:

* 10 days: We can not get a hold of the people directed by the court officer to forget the case or they were pulled by the crown or the referring source.
* Over 365: a youth could be in a facility and then in a poor mental health state that could not be communicated with. Other clients might receive additional charges and the justice system causes significant delays in processing.
* When a victim does not wish to participate in any capacity and the case is taking a long time to get the victim on board and the crown may take the case back and withdraw the charges.
* The case has been on the police officers or Crown’s desk for a very long time before we get it and contacting the participants is difficult without accurate contact information. As a result, the police will just drop the pre-charge.
* The accused is disputing the charges and not willing to take responsibility.
* The crown takes the case back because the accused has reoffended with more serious charges that are not divertible and may be in custody.
* The accused may not be mentally or physically capable of participating in a forum, or has moved to another area, is in hospital, is in custody, and other reasons for being unable to participate.
* The victim and the accused have already come to an agreement about how to repair the harm and no restorative response is needed.
* Other reasons:

Cases that were less than 10 days and more than 365 days were eliminated from the case durations assessment to give a more accurate reflection of the average number of days to complete a case from time of referral to the charges being recommended to the referring source to be withdrawn or stayed.

On average, over the past 7 years, LCCJ completes a case in 102 days. The target set by the Ministry of the Attorney General for the Youth Justice Committee Program is 120 days. When a case exceeds 120 days LCCJ will on occasion get a request for clarification from the government and they are easily explained.

Refer to table: #7

**Type of charge:** This section really does not tell me much. Youth take up a greater proportion of the class of charge because there are more youth cases.

Over the past 7 years there were 488 different charges laid on 342 clients. Accordingly, clients had an average on 1.4, or one to two charges each.

Refer to table: #8 & 9

**Prevalent Type of Charge:**

The 3 most common type of class one offences for both youth and adults were mischief under (56%), theft under (29%) and Fraud under (9%)

The 3 most common type of class two offences for both youth and adults were Assault (28%), Failure to comply (9%) and Uttering Threats (9%). Note: Failure to comply is no longer a charge under the YCJA.

Refer to table: #10 &13

Gender did not play a significant role in most common class one offence or class two offence. The 3 most common class one offences for both males and females were mischief, theft under and fraud and the most common class two offences for both male and females was assault. Overall, the youth and the adults were similar in the prevalence of type offence.

Refer to table: #14 (and #11)

Crown are more likely to refer for an assault than police. Accordingly, there may be some more education needed for police that they can refer an assault.

Class one offences are very similar in referrals as pre and post charges.

Refer to table: #15

**Manner of Restitution:**

The total number of cases that LCCJ has provided since 2012 is 342. Of the 342 cases 221 have gone to a restorative justice forum and 77 have come to an agreement without going to forum. There were 298 restorative justice agreements made. Of those agreements, 24% of them included community service hours at an average of 27 hours per accused. Another 20% of accused agreed to pay restitution/$ with the average being $319 dollars per restitution. The data indicated that 84% of the forums included a verbal apology. The cases that did not go to forum but were dealt with restoratively, were more likely to include a written apology. A written apology was made in 37% of cases that went to forum or where an agreement was made. There were many other facets of the agreements, 40% where other terms were included, such as intake with an addictions program, attending school, intake for mental health support and other terms specific to the individual and the circumstances of the case. Finally, 85% of offenders completed the terms of the agreement. The primary reasons why clients would not complete and agreement is inability to pay. Despite being directed to not agree to something that they are not able to do.

Refer to table: #16

**Other Agency Referrals:**

In a restorative justice process, referrals were made to other agencies for ongoing support in 30% to an average of 1.3 referrals. Accordingly, of the cases where referrals were made, the client received one to two referrals for ongoing longer-term support.

Refer to table: #17

**Victims:**

In forums there was an average of 7 participants. Victims were present at 55% of forums. However, victims were much more likely to be present at youth forums (68%), than adult forums (18%). The average number of victims present at any forum is 1.5. Of all the agreements that were made, 30% included a victim impact statement. Victim impact statements can be shared at the forum or in the alternate restorative justice process.

Where possible and desirable a victim is given the opportunity to provide a victim impact statement if they do not wish to participate in the forum. The victim is also given ample opportunity to consider participation in a forum, and to write a victim impact statement. The needs of the victim supersede the courts desire to have the case completed in a certain number of days.

Refer to table: #18

**Forum Facilitators:**

An average of 19% of forums were led by staff in the past 7 years. However, there were many years where 0% were led by staff and there is a movement towards more forums (high of 44%) being led by staff. However, overall an average of 79% of forums were volunteer led in the last 7 years. However, in some years as many as 44% of forums (2017/2018) were staff led. Which is above the 7 year average of 19%.

There was also a 2.3 average of volunteers at forums. Each forum is designed to have a Lead Facilitator, a Co-facilitator, and an Observer. It is known that the observer is not always present or necessary. It may be especially overwhelming in a case to have an observer present when staff is also present in supervisory capacity for complicated cases. Also, many observers are not invested in the case because they have not been involved throughout the entire process. There is a need to look at the observer role and ways to improve the participation of the observer, as a training strategy.

Of the total forums held over the years there has been a relatively steady increase in the number of forums that are staff lead and a steady decrease in the number of forums that are volunteer lead. In 2013, 2014, and 2015 zero forums were staff lead. In 2017/18, something changed (see above explanation), and more cases, 44% were staff lead.

Some possible reasons that a greater number of staff lead forums given are:

* There was a lack of availability of lead volunteers, as many volunteers went to support the Be Strong program.
* Cases have become more complex over time.
* Availability of volunteers: not available because of weather, sickness, travel, summer vacation and an aging volunteer base.
* There is pressure from the Crown or Police to have the case done within a certain time frame that volunteers could not accommodate.
* or pressure from the ministry to close cases more quickly and respond to the case in an alternative way.

Background: Many of the cases have become more complex over time for mental health and needs the professional support of staff. Changes in direction from the Ministry of Attorney general that it was OK to go ahead with a restorative process without the victim present had a significant impact as there was pressure to close a forum in 120 days. Also, the moving of lead and co-facilitators to the Be Strong program is likely a more reasonable explanation. This likely changed the focus of the administration to other programs such as Be Strong and VIVA Change the World. Also, in many of the years when staff led forums were high it was because the staff lead the initial referral and then the youth re-offended and the same facilitators, including staff were re-assigned because a relationship had been established with the client.

It is critical that the time and money invested in recruiting, screening, training, supporting, placing, supervising our volunteers is fully utilized to the capacity. Volunteer satisfaction and attrition is directly linked to meaningful participation in the program. If we are a community response to crime, we need to be community lead agency, which includes our volunteers taking a leadership role. It is important to note that in 92% of cases over the past 7 years a volunteer was present at a forum and that the average number of forums that were volunteer led is 79%. It is only in recent years, since 2017, 2018 and 2019 where paid staff have taken the lead more often than in the past and the explanation is primarily more complex cases requiring specific skills to the case. It is understood that this does not apply in a COVID-19 situation.

Proposal: It is important that the facilitators are given the opportunity to lead the forums with program coordinator support. Accordingly, it is our intention to set a target that current 7-year average of 70% of forums to be volunteer led in subsequent non-COVID-19 years.

Volunteer Placement: There is also a need to recognize that we can not simply go through the list of volunteers and place who is next on the list. There are several factors that need to be taken into consideration when placing a volunteer on a particular case. Facilitators need to be selectively chosen and placed in some forums based on geography, availability, by age, gender, and unique skills and abilities.