THE EXPERIENCE OF PARTICIPANTS AND THEIR SUPPORT PERSONS IN THE SASKATOON MENTAL HEALTH STRATEGY COURT: AN EXPLORATORY STUDY

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ABSTRACT

Mental health courts (MHCs) are specialty courts designed to address the issue of criminalizing and incarcerating people who experience mental health issues or intellectual disabilities by providing health and social services rather than jail sentences. Such a court was opened in November 2013 in Saskatoon, Saskatchewan, Canada as a collaborative endeavor between the Saskatchewan Ministry of Justice (MOJ), and the Saskatoon Health Region (SHR; currently Saskatchewan Health Authority). This qualitative master's thesis is part of the Center for Forensic Behavioural Science and Justice Studies' (CFBSJS) larger study entitled: *Saskatoon Mental Health Strategy: Preliminary Evaluation of Client Outcomes* project. **Purpose of the Study:** The purpose of this study was to incorporate the voices of those people who can speak with the most personal knowledge about the influence of the SMHSC process: the participants going through the SMHSC, and their closest supports. The findings illuminate what stood out from the participants' experiences, and what impacts they perceived the SMHSC has had on their well-being. **Research Question:** "What is the experience of participants and their support persons in the Saskatoon Mental Health Strategy court?" **Methodology:** An Interpretive Description (ID) approach was chosen for this qualitative study design. **Participants:** Seventeen people were interviewed: 11 SMHSC participants and 6 support persons. **Findings:** Overall participant descriptions of the experience ranged from "the best thing that ever happened to me" to reportedly feeling "raped" by the process. The participants and their support persons communicated high levels of stress and anxiety related to the court legal process, exacerbated by personal histories of trauma. Parallels between the dynamics of abusive relationships and the court process were found in all narratives. Support persons expressed a heavy burden of responsibility paired with very little input, as illustrated by one person who stated, "they might as well be charging me". Although the Indigenous population overall is overrepresented in the criminal justice system, they are underrepresented in the SMHSC. **Recommendations:** The incorporation of trauma informed practice and restorative justice principles in to this court process is recommended, which may include increasing the involvement of health care professionals in screening, assessment, and case management; including more education and resources; and making changes to the courtroom layout to improve communication between all parties. **Limitations of the Study:** A limitation common to all studies involving MHCs is their lack of generalizability, as each court's design, composition of the interdisciplinary team involved in the court, and partnering services is highly variable. The people recruited to this study were those who were willing and able to speak about their experiences. They represent a small portion of the people who attended the SMHSC, and recruitment may have missed those who had different experiences not captured in this study. **Conclusion**: The overall experience of attending the SMHSC is highly variable and dependent on interpersonal relationships with other actors in the courtroom. Although the intents of the SMHSC are noble, by participant accounts, in its current form it continues to cause harm to an already vulnerable and traumatized population, and its screening processes are overlooking many candidates, particularly Indigenous peoples. Participants and support person perspectives may help shape the court structure to be more effective, through considering a trauma-informed lens, and being a more participant-centered process.

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There are so many people I would like to thank for being part of this journey with me. Without them, I do not believe I would have been able to complete this master's thesis. My mom Michelle, and stepdad Mike supported me in moving back to Saskatoon, by providing a roof over my head and a steady supply of home-cooked meals during the period of time I was in full-time studies. My husband Adam took a chance on me despite the fact I lived in my parents' basement when we met, and allowed this thesis to be an intrusive third wheel in our relationship as we progressed through dating, living together, engagement, marriage, and the impending arrival of our first child. Dr. Wanda Martin's mentorship started when I began working with her as a Graduate Teaching Fellow and has continued as we have become neighbors and friends. My colleagues Rachel Johnson and Megan Pegg provided encouragement and support as we all struggled in finding balance between the most important things in life, career pursuits, and academics. Only when we are done will we know if we got that balance right. Brenda Yuen and Brea Lowenberger, hometown friends who are now lawyers, talked through legal perspectives of the ideas I was exploring.

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This study was inspired by a lawyer who stated in frustration with a client she was representing, that "the only option [for a person making the same mistakes repeatedly] is to give them a harsher sentence. They just don't *learn*." This is to acknowledge that learning, making 'good' decisions, and attending appointments are indeed challenging for certain segments of the population and that as healthcare providers we may be able to share a different lens that repeated mistakes may be seen through, and provide alternative solutions. Mental Health Courts are a legal recognition and response to this, and learning about them has opened my eyes to the potential roles and responsibilities of Registered Nurses and other healthcare providers to support the legal teams who are involved in this work.

"The cognitively challenged are before our courts in unknown numbers. We prosecute them again and again and again. We sentence them again and again and again. We imprison them again and again and again. They commit crimes again and again and again. We wonder why they do not change. The wonder of it all is that we do not change" – Justice Trueman in *Fetal Alcohol Spectrum Disorder in Adults: Ethical and Legal Perspectives* by Monty Nelson and Marguerite Trussler

DEDICATION

This work is dedicated to the participants of this study, and to all the people who advocate for making the systems that I have taken for granted more just.

To the participants of this study – sharing your stories requires courage, trust, and belief that by sharing together we can make this system better. I was inspired and motivated by what you told me, and if it hadn't been for the trust you placed in me, there were many days I may have given up. I hope that I am accurately representing and honoring your experiences in my work.

TABLE OF CONTENTS

APPENDICES

LIST OF TABLES

LIST OF FIGURES

GLOSSARY OF TERMS

This work has reviewed literature from Canada, the United States of America, and Australia, various levels of government, and many disciplines including, law, psychiatry, psychology, criminology, sociology, and social work literature, with great variance in terminology. Certain nuances may be lost in the use of generic or simplified terms, however, in the interest of simplifying terminology and understanding, the following definitions will be used.

Cognitive deficit. A deficit in one or more mental abilities such as memory and reasoning, attention span, academic learning, may include mental tracking, language, spatial memory, executive functioning and processing speed. Not all people with cognitive deficits are considered to have an intellectual disability (Stewart, Wilton & Sapers, 2016).

Correctional facility. An institution where a person who has been charged with unlawful behaviour resides while waiting for sentencing or after receiving a conviction and a sentence. This term encompasses federal penitentiaries, provincial jails, provincial remand centres, state prisons and county jails.

Forensic treatment centre. Inpatient or community services providing mental health care to persons with co-occurring legal and mental health problems (Livingston, 2006). This may include correctional facilities for those persons found criminally responsible, or public institutions providing mental health services to persons found not criminally responsible or unfit to stand trial.

Indigenous. A general term that collectively refers to First Nations, Métis and Inuit peoples, and Indigenous peoples of other countries (University of British Colombia [UBC], 2018). In Canada it can often be used interchangeably with the term Aboriginal, however

Indigenous is currently the preferred term (UBC, 2018). In cases where participants used other terms their own words have been preserved.

Intellectual disability. A significant deficit in general mental abilities; one form of differentiating a cognitive deficit from an intellectual disability is that a person with an intellectual disability scores below 70 on a standardized intelligence test (American Psychological Association [APA], 2013a; Stewart et al., 2016). Although the etiology and presentation varies greatly, significant deficits that arise from genetic syndromes, brain malformations or injuries, maternal disease, or environmental influences such as drug, alcohol or other toxins are all considered intellectual disabilities (APA, 2013b).

Mental Health Court (MHC). Mental health courts are specialized courts which manage cases in which the accused are diagnosed or are suspected to live with mental illness or intellectual disabilities. The goal of MHCs is to reduce recidivism through various means, which often includes diverting mentally disordered accused persons from potential custodial sentencing to alternative treatment options (Schneider, Bloom & Herema, 2007).

Mental Health Court participant ("MHC participant"). A person who has been charged with engaging in unlawful activity and is attending a Mental Health Court. This term encompasses offender, accused, defendant, mentally disordered accused, mentally disordered offender, consumer, service user, client, and stakeholder, when it is in reference to the person who is the subject of the mental health court proceedings.

Mental disorder. A mental disorder is a syndrome characterized by clinically significant disturbance in an individual's cognition, emotion regulation, or behavior that reflects a dysfunction in the psychological, biological, or developmental processes underlying mental functioning. Mental disorders are usually associated with significant distress or disability in

social, occupational, or other important activities (APA, 2013b). Mental disorders include, but are not limited to: mood disorders, anxiety disorders, psychoses, post-traumatic stress disorders, and substance abuse disorders.

Mentally disordered accused. A person who has engaged in, or has been accused of engaging in, unlawful activity, but has been deemed not criminally responsible or unfit to stand trial (Livingston, 2006).

Mentally disordered offender. A person who has been convicted of engaging in unlawful activity, and who is also suffering from a mental disorder. This person has been found criminally responsible, and may be living in the community or in custody in a correctional facility (Livingston, 2006).

Mental illness. Often used interchangeable with the term mental disorder.

Saskatoon Mental Health Strategy Court (SMHSC). The SMHSC is a specialized court in Saskatoon, Saskatchewan, Canada, that meets twice a month in an attempt to coordinate treatment and criminal justice needs for individuals with mental disorders or intellectual disabilities. The SMHSC is designed with the intention of improving access to information, assessments, and case management plans (Saskatchewan Law Courts, 2012).

Support person. A person who assists another person with day to day activities, logistical demands, personal caregiving, or moral and social support. This may be family member, friend, community service agency personnel, or remunerated primary caregiver.

Trauma. Trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being (Substance Abuse and Mental Health Services Administration, 2014, p. 7).

ABBREVIATIONS

AA	Alcoholics Anonymous
ACE	Adverse Childhood Event
AL	Analytic Logic
CSC	Correctional Service Canada
CFBSJS	Centre for Forensic Behavioural Science and Justice Studies
CIHI	Canadian Institute of Health Information
CMHN	Community Mental Health Nurse
EI	Epistemological Integrity
FASD	Fetal Alcohol Spectrum Disorder
HCP	Healthcare Provider
IA	Interpretive Authority
ID	Interpretive Description
MHC	Mental Health Court
MHP	Mental Health Practitioner
MOJ	Ministry of Justice
NP	Nurse Practitioner
PC	Perceived Coercion
PHAC	Public Health Agency of Canada
PJ	Procedural Justice
PSP	Professional Support Person
RC	Representative Credibility
RPN	Registered Psychiatric Nurse
RN	Registered Nurse
SHR	Saskatchewan Health Region; currently Saskatchewan Health Authority
SAMHSA	Substance Abuse and Mental Health Services Administration
SMHSC	Saskatoon Mental Health Strategy Court
SW	Social Worker
TIA	Trauma Informed Approach
TIP	Trauma Informed Practice
TJ	Therapeutic Jurisprudence
TRCC	Truth and Reconciliation Commission of Canada
USA	United States of America

The Experience of Participants and Their Support Persons in the Saskatoon Mental Health Strategy Court: An Exploratory Study

Chapter I – INTRODUCTION AND BACKGROUND

Mental health courts (MHCs) are a criminal justice response to a growing recognition that unlawful actions related to mental disorders or intellectual disabilities may be more effectively addressed and prevented by providing health and social services rather than jail sentences. Such a court was opened in Saskatoon, Saskatchewan, Canada in November of 2013 as a collaborative endeavor between the Saskatchewan Ministry of Justice (MOJ), the Saskatoon Health Region (SHR; currently Saskatchewan Health Authority), and University of Saskatchewan Centre for Forensic Behavioural Sciences and Justice Studies (CFBSJS). The CFBSJS has been collecting data and performing research on the court since its inception in recognition that the effectiveness of the court must be captured in order to improve and maintain the court's function. The *Saskatoon Mental Health Strategy: Preliminary Evaluation of Client Outcomes* project, conducted by the CFBSJS was concurrently underway at the time of this study. The researchers in this project are evaluating professional perspectives of the Saskatoon Mental Health Strategy Court (SMHSC), pre-post analysis on quantitative data such as arrests, charges, and emergency department admissions among other variables, a comparative cost assessment, and the SMHSC client and support person perspectives. This thesis consists of a portion of the larger project, which is intended to capture and share the experiences of those attending the SMHSC and the perceived influence it had on the lives of participants and support persons from their point of view.

1.1 Background

1.1.1 High Rates of Adult Persons Living With Mental Disorders and Intellectual Disabilities in Correctional Facilities

There is a widespread recognition that people who experience mental illness are disproportionately represented in the criminal justice system, particularly in correctional institutions (Beaudette, Power & Stewart, 2015; Brown et al., 2018; Canadian Institute for Health Information [CIHI], 2008; Correctional Service Canada [CSC], 2013). Recent screening upon admission to Canadian federal correctional facilities revealed that a staggering 73% of male offenders met the criteria for experiencing mental illness at the time of admission, compared to an estimated 14% prevalence of mental illness at any given time in the general population (Beaudette et al., 2015; Public Health Agency of Canada [PHAC], 2015). The prevalence of mood disorders at the time of admission was approximately 17%, compared to national prevalence of 5-8%; psychotic disorders such as schizophrenia 3% compared to 0.3-1% in the general population; and anxiety disorders 29.5% compared to 12.2% (Beaudette et al., 2015; PHAC, 2015).

The disproportionate representation of people living with mental disorders in correctional facilities has been attributed to the deinstitutionalization of people living with mental illness, and a simultaneous lack of adequate parallel community resources to ensure access to appropriate medication, housing, and therapies (Chaimowitz, 2012; Dyck, 2011; Fisher, Silver, & Wolff, 2006; Office of the Correctional Investigator [OCI], 2014; Primeau, Bowers, Harrison, & XuXu, 2013). The recognition that people with mental illness who had transitioned to living in the community were subject to being arrested and detained in correctional facilities at increasing frequency was first noted and termed “criminalization of the mentally ill” shortly after the wave

of deinstitutionalization swept across North America (Abramson, 1972). Without the supports that institutions offered, persons struggling with mental illness and cognitive delays may experience increased severity in symptoms, and too often become engaged in unlawful behaviour such as domestic violence, theft, or self-medication using illegal substances (Abramson, 1972; Kent-Wilkinson et al., 2012; Schneider et al., 2007). To further exacerbate the problem, their sentences may be more severe if they fail to appear for court dates or do not comply with bail conditions, which may often be due to anxiety, depression or paranoia as a result of the mental illness itself, poor understanding, or structural barriers. This results in being further punished for the symptoms of their illness and other factors beyond their control (Fast & Conry, 2009; Kent-Wilkinson et al., 2012).

Another troublesome observation is the high rate of people living with intellectual disabilities, particularly Fetal Alcohol Spectrum Disorder (FASD), in correctional facilities (FASD Network, 2020; Mela & Luther, 2013; Popova, Lange, Bekmuradov, Mihic & Rehm, 2011). The population of people living with FASD is also disproportionately represented in prison populations. A pilot study screening male offenders upon admission to one correctional facility in Canada found that 25% had some level of cognitive deficit, with 15.4% with multiple deficits or intellectual disability (Stewart et al., 2016). When screening for FASD was done in another correctional facility in Canada, 10% of all newly sentenced offenders who participated were given a new diagnosis of FASD after screening, and for an additional 15% an FASD diagnosis could not be confirmed or ruled out (MacPherson, Chudley, & Grant, 2011). Variable definitions and diagnostic methodologies, stigma around both inquiring about and disclosing prenatal alcohol consumption, and challenges in confirming maternal consumption of alcohol make it difficult to estimate the prevalence of FASD in the general population, however, most

general population estimates range from 1-3%, with estimates up to 10% in some communities (Burnside & Fuchs, 2011; Canadian Paediatric Society, 2010; Health Canada, 2017).

Upon examining numerous variables, Harker (2014) found that reasons contributing to higher involvement in the criminal justice system among people who live with FASD include the interplay between an unstable home environment, and altered brain structures caused by in vitro exposure to alcohol. Specifically, the common experience of being removed from their home environment and being placed in foster care, paired with cognitive testing demonstrating poor memory, executive functioning, and impulse control increased the likelihood of involvement in unlawful activity (Harker, 2014). This is an important finding, as much literature on changes in brain structure associated with FASD suggests that changes in the brain structure are caused by alcohol exposure alone, however, recognizing the harmful impact of foster care in childhood acknowledges that adverse childhood experiences also have a significant influence on likely for unlawful behaviour later on in life (Harker, 2014).

1.1.2 High Rates of Trauma and Adverse Childhood Experiences (ACEs) Among Justice-Involved Persons

According to the Substance Abuse and Mental Health Services Administration (SAMHSA) :

> Trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being. (SAMHSA, 2014, p. 7)

Furthermore, key elements of a traumatic experience include that it was unexpected, the person was unprepared, and there was nothing the person could do to stop it from happening

(Bolton et al., 2013). In terms of potential relationships between the experience of trauma and mental health courts specifically, trauma is linked with poor mental health, addictions, depression, 'acting out' behaviorally, difficulty in school or work, violence, crime, relational conflict, and homelessness (Bolton et al., 2013). *The Trauma Toolkit* (Bolton et al., 2013), and *SAMSHA's Concept of Trauma and Guidance for a Trauma Informed Approach* manual prepared by SAMHSA's Trauma and Justice Strategic Initiative (SAMHSA, 2014) specifically identify criminal justice settings, including both jails and courtrooms as locations where higher than average experience of trauma can be expected to be prevalent.

Causes of trauma may include experiencing or witnessing physical, sexual, and/or emotional abuse, exposure to violence and great losses such as war, terrorism, assault or murder or severe injury or death (Bolton et al, 2013). In a recent systematic review and meta-analysis of literature regarding the prevalence of experiencing childhood abuse among incarcerated individuals in Canada, Bodkin et al. (2019) concluded that the prevalence of any type of childhood abuse was over 65% among women, and above 50% overall. Studies have shown that experiencing trauma, particularly during childhood, is linked with being involved in unlawful behaviour later in life (Reavis, Looman, Franco, & Rojas, 2013; Smith, 2016). In a ground breaking study, Felitti et al. (1998) found that exposure to adverse childhood events, (ACEs) such as abuse, neglect and household dysfunction, significantly increased health risk behaviour and disease in adulthood. The questionnaire tool used in Felitti's study, and data collected from it, has subsequently been used by countless other researchers, including Reavis et al. (2013), who explored if ACEs also influenced adult criminality. Reavis et al. (2013) found that when they compared ACEs scores of 151 male offenders who were court-ordered to receive psychological

treatment to the scores of a normative sample, the offender group reported almost four times as many ACEs.

1.1.2.1 Incarceration and trauma. Among the random sample of adult males in a single prison in the United States of America (USA), every single participant in the study reported exposure to trauma. Participants with mental illness had higher reported experiences of all forms of trauma in both adulthood and childhood, ranging from physical and verbal abuse, unwanted sexual contact, witnessing traumatic death, and neglect (Wolff, Huening, Shi, & Freuh, 2014). Specific to the Canadian context, a meta-analysis of studies done on the experience of childhood abuse among persons in prison in Canada, by Bodkin et al. (2019) found that half of all persons incarcerated nationally have experienced childhood abuse. None of these studies take into account the impact of intergenerational trauma experienced by Indigenous peoples in Canada and the impact of the trauma inflicted upon generations due to colonization, the residential school system, the 'Sixties Scoop', and ongoing structural and societal racism (Bolton et al., 2013), which would likely increase prevalence of trauma had it been taken into consideration.

1.1.2.2 Mental health and addiction and trauma. The majority of men and women in substance abuse treatment programs have histories of trauma and abuse (Brown, Harris & Fallot, 2013). A systematic review of studies examining prevalence rates of physical and sexual abuse among persons living with schizophrenia, bipolar disorder, and other severe mental illness was 47% physical (up to 72% in one population), and 37% sexual abuse (up to 49% in one study) (Mauritz, Goossens, Draijer & van Achterberg, 2013). Exposure to trauma is also considered to be higher among individuals with intellectual or developmental disabilities due to their increased vulnerability, however because reliable instruments for assessing this have yet to be developed, there is no reliable data on prevalence rates of abuse in this population (Keesler, 2014).

1.1.2.3 Youth criminal justice and trauma. Up to 90% of youth involved in the juvenile delinquency system in the United States have experienced traumatic victimization, and up to 70% met criteria for a mental health disorder (Buffington, Dierkhising, & Marsh, 2013). While the trauma and illness do not disappear at age 18, they are not studied as frequently in adults. As Smith (2016) explains, society is beginning to consider the impact that traumatic events have on young offenders and take a more empathetic approach towards them, however there is still a general sense that adults should be judged in terms of their actions, not their experiences. Smith noted the gap in research and advocacy for adult victims of trauma, and chose to interview adult males with criminal charges. She found that participants had experienced an average of 4.5 ACEs, and also noted that the ACEs questionnaire does not capture other adult experiences which the participants in her study described. These included sexual assault, interpersonal violence, domestic abuse, poverty, practical losses, car accidents, bullying, homelessness, racism/sexism/homophobia, police brutality, instability in living environment, being in jail, and separation from family members (Smith, 2016).

1.1.2.4 Intergenerational trauma. Another source of trauma important to the Canadian context is colonization, residential schools, and intergenerational trauma on the Indigenous peoples of Canada (Bolton et al., 2013). Although Indigenous adults represent only about 4.3% of the adult population in Canada, they are overrepresented in admissions to provincial and territorial correctional services; in 2015-2016, they accounted for 26% of admissions (Malakieh, 2018; Statistics Canada, 2017). In Saskatchewan, the over-representation is further pronounced, with Indigenous peoples accounting for 16% of the population, and representing 76% of people in custody (Malakieh, 2018; Statistics Canada, 2017). The Gladue Principle in sentencing was introduced in 1999 as a tool to address this over-representation and prevent Indigenous peoples

from being over-incarcerated (Government of Canada, 2018). The Gladue principle is intended to direct the sentencing judge to consider restorative justice options as alternatives to incarceration when sentencing an Indigenous offender, bearing in mind the higher incidence of personal and historical trauma, and social disadvantages and the further negative consequences of incarceration (Government of Canada, 2018). However, the reality remains that many people do still end up in jail, and carry their illnesses, intellectual disabilities, and trauma with them (Government of Canada, 2018).

Living with mental illness and intellectual disabilities without proper support in the community not only has potential to increase risk of engaging, and being charged and convicted of unlawful activity, these challenges have also been shown to negatively impact quality of life while incarcerated. This is further motivation for avoiding incarceration for this population.

1.1.2.5 Decompensation upon admission. There are many factors that put people living with mental illness or intellectual disabilities at risk for decompensation of their mental health upon admission to correctional facilities. Within the correctional facility itself, they have reduced access to previous social support networks, increased exposure to violence, and experience continued stigma related to their illness or disability (Canada & Watson, 2013). Challenges with abiding by the formal and informal rules of the correctional institution and culture, and vulnerability to exploitation and victimization has the potential to make living in the correctional environment particularly difficult, as they may have poor impulse control, challenges in understanding the formal and informal institutional regulations, and limited ability to adapt to the institutional and social norms (MacPherson et al., 2011). These factors contribute to people living with mental illness being more likely victims of physical violence within correctional facilities, and more likely to spend time in segregation (Blitz, Wolff & Shi, 2008;

MacPherson et al., 2011; OCI, 2014; Stewart et al., 2016). Mental illness and intellectual disabilities may also interfere with their ability to partake meaningfully in rehabilitative programming, which can be one of the factors that results in offenders with cognitive deficits serving a greater proportion of their sentence before their first release (Stewart et al., 2016). The Correctional Service Canada (CSC) is aware of the challenges that these people living in their facilities face, however the CSC's capacity to effectively identify and respond to the challenges is limited by the large numbers of people with mental illness and cognitive delays entering the system, and current inadequacy of resources and training available within institutions (CSC, 2013; Delveaux et al., 2017; OCI, 2014).

The recognition of the disproportionate representation of people living with mental illness and intellectual disabilities in the courts and in correctional facilities, compounded by evidence that these same people suffer disproportionately while incarcerated, has for a long time prompted discussions about more appropriate alternative options for people living with mental illness or intellectual disabilities who engage in unlawful behaviour. Mental health courts emerged as one potential solution that has been developed to divert people from repeat exposures to the criminal justice system, and prevent detention in correctional facilities (Schneider et al., 2007).

1.1.3 What is a Mental Health Court?

Mental health courts (MHCs) are specialty courts designed to address the issue of criminalizing and incarcerating people who experience mental health issues or behavioural and/or learning disabilities. Although each court is locally designed with differing teams, criteria for qualifying, and program goals, they share the goal of streamlining access to community mental health services as a way to circumvent the prison system and have people access services

that are more likely to improve their health and wellbeing, and consequently reduce recidivism (Castellano & Anderson, 2013; Schneider et al., 2007). Schneider, Crocker, and Leclair (2016) identify the following characteristics as typical of MHCs:

> a) all accused with mental illness are handled on a single court docket; b) a collaborative team approach (judges, lawyers, clinicians and accused) is prepared in order to arrive at a consensus for treatment and supervision plans; c) the availability of appropriate treatment is ensured prior to diversion being approved; and d) appropriate monitoring of treatment is put in place with possible sanctions for non-compliance (reinstituting charges or other sentences). (p. 307)

Other characteristics of MHCs are that participation is voluntary for the offender, the nature of the offences tend to minor to mid-range in seriousness, and a connection to the offence and mental illness is plausible or evident (Schneider et al., 2016). Many require a guilty plea for the participant to be included, however the sentencing is delayed until the effectiveness of treatment or services provided on reducing public risk and risk of recidivism can be determined (Schneider et al., 2007).

The effectiveness of MHCs has been evaluated by various measures. A meta-analysis of diversion programs in North America found that MHCs specifically demonstrate a statistically significant effectiveness in reducing recidivism, increasing service utilization, and improving mental health status (Lange, Rehm & Popova, 2011; Sarteschi, Vaughn, & Kim, 2011). Other studies have also demonstrated reduced number of days spent in jail for MHC participants (Steadman, Redlich, Callahan, Robbins, & Vesselinov, 2011), and longer term reduction in recidivism than previous studies (Ray, 2014). Finally, due primarily to the high costs associated with incarcerating people, particularly those requiring additional resources in an attempt to meet

their mental health needs, Cummings (2010) outlined how MHCs reduced costs in a public system, in addition to aforementioned benefits. This increasing accumulation of evidence demonstrating the effectiveness of MHCs has stimulated a widespread proliferation of MHCs across North America, including several in Canada.

1.1.4 Development of the Saskatoon Mental Health Strategy Court (SMHSC)

The first mental health court in Canada was proposed in 1994, and opened in Toronto, Ontario in 1998 by Judge Schneider in response to long delays in fitness to stand trial assessments. There are new diversion programs in most Canadian provinces, although not all provinces have specific MHCs. As of 2013 there were 15 adult MHCs in Canada, and 10 youth MHCs. Provinces which have MHCs include Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, and Newfoundland (Schneider et al., 2016). The local context in Saskatoon, Saskatchewan will be explored in greater depth.

1.1.4.1 History of the SMHSC. The SMHSC was an initiative by the Saskatoon Provincial Court in 2013 to address the needs of those with mental health concerns and intellectual disabilities (Barron, Moore, Luther, & Wormith, 2015). Pointed advocacy and court direction to the correctional system, the Department of Justice, and the Department of Social Services to provide treatment rather than incarceration to defendants living with FASD was a prominent feature of Judge Mary Ellen Turpel-Lafond's rulings in the Provincial Court in Saskatchewan in the late 1990's and early 2000's (Ehman, 2018). Although this was done within the confines of the courtroom she oversaw, as opposed to having a specific court dedicated to these matters, her judicial advocacy brought much needed awareness to the injustice of applying the law equally to those living with FASD. This led to educational forums and facilitated group discussions at courtrooms across the province, and eventually the establishment

of the current SMHSC, which was led by Judge Sheila Whelan to address needs of those with mental illness, cognitive impairments, and FASD (Barron et al., 2015; Ehman, 2018). The establishment of the SMHSC was also supported by the forensic psychiatry division of the University of Saskatchewan and the Saskatoon Health Region (SHR; known as Saskatchewan Health Authority since 2017). A *Needs Assessment of Forensic Mental Health Programs and Services for Offenders in Saskatchewan* (Kent-Wilkinson et al., 2012) had numerous findings and recommendations that supported the establishment of a MHC in Saskatchewan. These findings included highlighting the prevalence of people living with mental illness and FASD in the provincial criminal justice system, the voices of family members of offenders who lived with mental illness and their lack of access to appropriate treatment in the current system, and professional voices who supported the establishment of a MHC in the province (Kent-Wilkinson et al., 2012).

Provincial government attention to the prevalence of FASD in the criminal justice system added political will to supporting the court. Meetings were set up between the Saskatchewan provincial government and the SHR along with other stakeholders to establish entrance criteria, and objectives of the court as follows:

> 1) To effectively deal with accused persons with a mental health condition within the provisions of the Criminal Code of Canada and the Mental Health Services Act of Saskatchewan; 2) to provide the accused with an effective case management process, while maintaining a focus on public safety; 3) to hold the accused person accountable for his/her behavior; 4) to protect the rights of the public, the rights of the accused, and the integrity of the criminal justice system; and 5) to develop processes for the effective gathering and sharing of information,

including timely medical and psychological assessments to assist in the support and supervision of accused persons with a mental health condition" (Whelan, 2013, p. 3).

1.1.4.2 Description of SMHSC. The SMHSC held its first formal sitting in November 2013, and has continued to meet twice a month since its inception. The SMHSC currently meets in room 4 of the Provincial Court House. Referrals to the SMHSC are made by Provincial Court Judges and the Crown prosecutor, based on their own assessments of the accused being a person with a mental health condition, potential to benefit from case management, and nature of charges (Barron et al., 2015; Saskatchewan Law Courts, 2012). The SMHSC incorporates professionals from various professional backgrounds, with a baseline court team including the following professions: a Provincial Court judge, a lawyer representing the Crown, defense counsel representing the participant (almost always Legal Aid), a community mental health nurse, an FASD Network support person, and a representative from Corrections and Public Safety such as a parole officer or social worker (Barron et al., 2015). Community partners are also at times present, if a need for their specific services is anticipated. There are approximately 60 offender participants active in the Mental Health Strategy court at any given time (Barron et al., 2015).

A process evaluation of the Mental Health Strategy court in Saskatoon was conducted by the CFBSJS in 2015. Although data on the effectiveness of reducing recidivism in the Saskatchewan context have not been released at the time of this study, the process evaluation has indicated that the court teams are overall generally satisfied with the manner in which the court is functioning (Barron et al., 2015). Members of the court team reported overwhelming positive attitudes towards the court including that it "exceeded expectations", and participants in the court reported that they felt like they were seen "more as an individual than an offender" (Barron et al.,

2015, pp. 29–30). The greatest critique of the court in its current iteration is that the demand far exceeds the capacity of the court, which highlights the great local need (Barron et al., 2015). There is no record of seeking feedback from the accused persons or their families on how to improve the process, or what elements of the court, if any, are identified as being effective in improving their health and well-being.

1.2 Need for the Study

The purpose of this study was to incorporate the voices of those people who could speak with the most personal knowledge about the influence of the MHC process: the participants going through the SMHSC, and their closest supports. The findings illuminate what stood out from the participants' experiences, and what impacts they perceived the SMHSC court had on their well-being.

1.2.1 Purpose/Significance of the Study

Although there is a large body of evidence supporting the effectiveness of MHCs in terms of both legal and health outcomes, it remains unknown precisely why they work, or why some models work better than others (Canada & Watson, 2013). Consultation processes and the development of MHCs include input from legal teams, health care professionals (HCPs), and specific community stakeholders. People accessing the services have been largely overlooked in informing the development and evaluation of MHCs, which highlights that the concept of health care's patient-centered or client-centered care has not been extended into the realm of therapeutic courts (Nordberg, 2015).

Including the voices of the participants and their support persons was significant on various levels. Participants themselves were provided with the opportunity to have their voices and opinions heard in a system initially designed to punish as a method of deterrence, but is now

restructured with an intent to benefit them. They were able to share insight into what aspects of the court they personally felt had the biggest impact on them. Support persons had the opportunity to share their observations of how the process influenced the person they were supporting, and how the ripple effects of the court structure and decisions also impacted them. Both participants and support persons shared meaningful insights about what the experience was like from a perspective that is difficult to imagine from the standpoint of professionals who are familiar and comfortable with court proceedings, and being in the environment of a courtroom gives a sense of normalcy. These perspectives, it is hoped, may help shape the court structure to be a more participant-centered experience for future participants. Improving how participant needs are met in the court may improve desired outcomes, such as better healthy integration into the community, lower incarceration rates, and reduced recidivism.

1.2.2 Statement of the Problem

Participants and their families (or other support systems) are the people who are affected most by the MHC process, yet the least is known about their experiences, and to date they have had very little input in regards to its structure and function. The absence of this perspective may be limiting the potential positive influence of the courts in their current structure and design.

1.2.3 Research Question

The core research question in this study was "What is the experience of participants and their support persons in the Saskatoon Mental Health Strategy Court?" Participants were invited to discuss the emotional experience of being involved in the court process, to describe the SMHSC and its purpose from their perspective, to reflect on the perceived impact that the court process had on their own lives, and to make suggestions for improvement.

CHAPTER II –LITERATURE REVIEW

In this chapter key concepts that inform the Mental Health Court (MHC) structure and function are summarized. The legal concepts of therapeutic jursisprudence and procedural justice, and the psychiatric concept of perceived coercion feature prominently in studies that attempt to evaluate the function of MHCs from a subjective perspective of MHC participants. These concepts will be explained, and several studies featuring them will be highlighted. A more thorough review of the few articles that solely include qualitative interviews in relation to the participant experience will follow.

2.1 Literature Review Method

To explain the central concepts of therapeutic jurisprudence, procedural justice, and perceived coercion, the origins of these concepts were explored in more depth. Several studies were selected which measured the degree of application of these concepts to illustrate participant experiences of them. A more structured search strategy was used for discovering and reviewing qualitative studies with a focus on the general experience of MHC participants.

2.1.1 Search Strategy

The Cumulative Index to Nursing and Allied Health Literature (CINAHL) and Science Direct databases were searched using the terms “mental health court” OR “mental health tribunal” AND “participant” OR “lived experience” OR “consumer” OR “service user” OR “defendant” OR “qualitative”. Only one article which focused on the participant experience in MHCs was located through these searches (Nordberg, 2015). Four journals were noted to frequently publish articles about MHCs, so the titles and abstracts of all articles published in these journals in the years 2011-2016 were browsed. These journals included: *International*

Journal of Law and Psychiatry, Law and Human Behavior, International Journal of Forensic Mental Health, and Behavioural Science and Law. No additional articles were found.

2.2 Literature Review Findings

There is a large amount of literature related to the structure and function of MHCs, using structured interviews and tools which measure specific concepts using mixed-methods to find answers to questions and test statistical hypotheses. Several articles that used interviews to elaborate on how those concepts were studied were selected based on the determination of relevance to the current study. Only three qualitative studies were found which focussed primarily on the experience of MHC participants (Canada & Gunn, 2013; Canada & Ray, 2016; Nordberg, 2015).

2.2.1 Central Theoretical Factors Contributing to the Effectiveness of MHCs

Most studies about MHCs which included the perspectives of participants have been developed through a deductive reasoning approach. The studies start with concepts which are suspected or assumed to contribute to MHC effectiveness, and have structured interviews or surveys that measure those factors. These factors have been constructed from a privileged professional or academic perspective, and assume that what the researcher has determined is important is also important to the MHC participant.

2.2.1.1 Therapeutic jurisprudence (TJ). Therapeutic jurisprudence is considered to be the foundation of problem solving courts, including MHCs. The concept of TJ was developed in 1987 by two mental health and disability law professors, David Wexler and Bruce Winick (International Society for Therapeutic Jurisprudence, 2018). Therapeutic jurisprudence is an interdisciplinary approach to law that that focusses attention on how the law itself, and the application of the law can have a therapeutic or anti-therapeutic impact on mental health and

psychological functioning or wellbeing of individuals who are involved in the justice system (Winick, 1999). When using a TJ approach, a court strives to consider not only the correct application of the law, but also how it will impact the person it is being applied to (Wexler, 1992). An example of this may be choosing sentencing that allows for access to treatment, or that has a strong influence on participants to engage in health promoting or stabilizing behaviours, such as structuring conditional releases that require a participant to make a public commitment that they will take medications regularly or attend therapies (Wexler, 1992). Judges who are proponents of TJ are more likely to search for root causes of unlawful behaviour, and strive to engage the defendant in taking ownership of their behaviour and addressing it, rather than simply directing the appropriate sanction for the behaviour (Wexler, 2000). In this sense, one would expect to see more direct communication between the judge and the participant in court, with the judge directly inquiring about compliance with conditions, and expressing either satisfaction with or disapproval of the participants' actions.

With this in mind, Gottfried, Carbonell and Miller (2014) hypothesized that increased frequency of judge-defendant communication would 1) reduce recidivism; 2) reduce the severity of subsequent unlawful behaviour; and 3) increase the amount of time before the next offense, in comparison with participants who had less frequent communication with the judge. Gottfried et al. (2014) tested their hypothesis by recording the number of direct interactions that each participant had with the judge in the courtroom. They then ran statistical tests to determine if the number of direct interactions with the judge had a significant impact on subsequent unlawful behaviour. None of their hypotheses were supported, indicating that frequency of direct communication itself is not sufficient to reduce recidivism. The authors suggested that the

content of the communication, as well as the tone should also be taken into consideration in future studies.

Because an important element of therapeutic jurisprudence is that participants are active participants in the court process and take ownership of their behaviours, it has been theorized that higher perceived procedural justice and lower perceived coercion have an impact on the participant's sense of empowerment and willingness to comply with instructions from the court (Canada & Watson, 2013; Poythress, Petrila, McGaha & Boothroyd, 2002). These concepts will be explored next.

2.2.1.2 Procedural justice (PJ). The concept of procedural justice is accredited to Tom Tyler, a professor of psychology and law in his book released in 1990 and updated in 2006 entitled *Why People Obey the Law*. According to PJ, a person's satisfaction and sense of fairness following a legal process is influenced more by how they are treated throughout the process than by the outcome or sentence they receive, which in turn influences their likelihood to reoffend (Tyler, 2006). Elements that are central to creating a system that is procedurally just include ensuring that all parties are heard before a decision is made, that everyone is treated respectfully, and that there is an understanding of how or why certain outcomes are determined. In the context of MHCs, when treatments or assessments are included as conditions of participation or of sentencing, Tyler (2006) proposed that people are more likely to participate in such terms of court ordered or suggested treatment if they have more positive feelings of PJ.

Procedural justice has been evaluated in MHCs by surveying participants and using scales which measure the degree to which the defendant feels they have a voice, are viewed as a 'person', are treated fairly and with respect, and are satisfied with how the case was dealt with (Poythress et al., 2002). In an early study of PJ in MHCs, while observing a longstanding MHC

in Broward County, Florida, Poythress et al. (2002) noted that the proceedings appeared to be less formal, adversarial, and succinct. They also appeared to include more two-way dialogue between the judge and participants in comparison to a conventional court responding to similar charges. To test this, Poythress et al. (2002) asked participants in both the MHC and a conventional court to rate various dimensions of PJ. They found that participants of the MHC rated all dimensions of PJ higher than in conventional court where some dimensions were nearly absent.

A more recent study by Canada and Watson (2013) also evaluated PJ in two MHCs in the Midwestern USA using a modified version of the tool used in Poythress et al.'s study to assess if there were variations in the various dimensions of PJ between the two MHCs. They found positive responses to questions related to PJ in both courts, but found that participants in one court had much less involvement in their treatment planning than the other. Lower levels of involvement were associated with participants expressing more feelings of frustration and of being controlled or coerced into complying with court decisions rather than collaborating with them. Redlich and Han (2014) found that across four different MHCs in the USA, there was a significant positive relationship between PJ and rates of success in MHCs. Those who had poorer perception of PJ had increased rates of new arrests, incarceration, bench warrants, and ultimately of being terminated from the MHC or leaving it on their own accord (Canada & Hiday, 2014; Redlich & Han, 2014).

2.2.1.3 Perceived coercion (PC). Perceived coercion in MHCs has been assessed with an adapted MacArthur Perceived Coercion Scale, which asks about perceived influence, control, choice and freedom originally associated with involuntary psychiatric hospital admission process (Poythress et al., 2002). This dimension was measured because participation in MHCs and

associated treatment is intended to be voluntary and collaborative. This is relevant as those who express that they agree to treatment rather than are mandated to comply with it are more likely to continue with it. Researchers found that levels of PC were overall much lower in the MHC than in a conventional court; however, they also found that more than a third of participants in the sample were not aware that involvement in the MHC and associated treatment was in fact voluntary. Not surprisingly, participants who were not aware of the voluntary nature of the court reported higher levels of coercion (Poythress et al., 2002). Edgely (2014) recognized this from research conducted on MHCs in Australia, and identified that truly voluntary participation, among other factors, was highly likely to have a significant impact on court outcomes however the impacts of this have not been effectively measured to date.

Studies that focus on TJ, PJ and PC are valuable in demonstrating that the intentions of the court are being applied well. The first wave of MHC literature has focussed on determining whether MHCs are effective in reducing recidivism, however there is no clear understanding exactly why or how they are effective beyond the aforementioned concepts. Because they used a deductive approach presuming the key variables to success were already known, they risked overlooking what factors participants themselves believed contributed to their successful completion.

2.2.2 Participant Voice in MHC Studies

Only three studies that looked more broadly at the participant perspective for evaluating MHC experiences rather than assessing or measuring a predetermined variable or concept were found through this search method. Canada and Gunn (2013) utilized a broad approach and asked participants in MHCs in the Midwestern USA about their general experience in MHCs, and specifically what factors they felt contributed to their success in the MHC. Canada and Ray

(2016) reviewed the same interviews from the Canada and Gunn (2013) study to determine from participants what changes they experienced as a result of participating in an MHC. Only one study was entirely exploratory in nature asking participants in general about their experiences in a MHC (Nordberg, 2015).

2.2.2.1 Participant perspectives of what works. Canada and Gunn (2013) took an inductive approach and asked participants to identify which factors contributed to their success and which factors undermined it. They interviewed a total of 26 participants recruited from two different MHCs in the Midwestern United States. Participants in Canada and Gunn's (2013) study were actively involved in the MHC, and were recruited through the distribution of flyers in the courtroom.

When asked about their experiences in these MHCs, participants in Canada and Gunn's (2013) study described high levels of anxiety, depression, and guilt. When exploring what worked well for them in the MHC, participants expressed that being in the MHC increased structure in their lives by having to attend court dates and appointments or activities and that the expectation that they would have to report their progress increased their feelings of responsibility and accountability (Canada & Gunn, 2013). Participants identified formal and informal support networks as being central to their success; whether that support was through peers, support groups such as Alcoholics Anonymous (AA), family members, care providers, or MHC staff when other support networks were negative, tenuous, or absent. Access to treatment and social services were essential; when it was facilitated through the courts this contributed to their success, and when access was limited it undermined it. Finally, when MHC staff expressed approval or gave positive reinforcement, participants identified this as a motivating factor.

Notably, less than a quarter of the participants said this reinforcement was given (Canada & Gunn, 2013).

2.2.2.2 Participant definitions of success. Most studies evaluating the effectiveness of MHCs addressed indicators chosen from legal or healthcare perspectives such as recidivism, service utilization, cost, and mental health status. In their work, Canada and Ray (2016) asked MHC participants what they valued in terms of the successes they achieved in the MHC process. This study appeared to share another facet of information garnered from the participants interviewed in Canada and Gunn's (2013) study, as the number of participants, location, and recruitment strategy are identical.

In Canada and Ray's (2016) study, psychiatric stability, sobriety, improved relationships, increased engagement in one's own life, and mental health emerged as themes that participants identified as successes related to their MHC experiences. In terms of psychiatric stability, participants reported involvement in the MHC contributed to receiving the right medications and increased adherence to them as compared to before involvement in the MHC, as well as better temperament and mood stability (Canada & Ray, 2016). When discussing sobriety, the participants' descriptions of success highlighted longer periods of time between episodes of substance use rather than complete abstinence, as insisting on complete abstinence can overlook significant intermediate successes in one's journey recovering from addiction. Many participants viewed improved relationships with family and friends as indicators of success, and recognized in themselves that they had more capacity to care about others after the process (Canada & Ray, 2016). Finally, participants measured their success through recognizing that they participated in more positive activities, had a more structured daily routine, had developed meaningful goals

that they were working toward, and generally felt more at peace and better about themselves (Canada & Ray, 2016).

2.2.2.3 Experiences of accused who graduated from 102 court in Toronto. In this study Nordberg (2015) analysed interview transcripts and notes taken from interviews with participants from a MHC in Toronto, Canada which asked participants about their experiences from a phenomenological approach. She recruited nine participants through referrals from community contacts, opportunities that arose while observing the court, and snowball sampling. Two of the interviews were audiotaped, and seven were captured by note-taking due to participants' discomfort with being recorded (Nordberg, 2015).

Nordberg (2015) found that MHC participants identified involvement in the MHC as an important juncture in their lives, as many of them structured their personal narratives delineating their story by describing life before the MHC, and after. Although the experience was not described as being positive by all participants, those who had negative experiences expressed recognition that it had the potential to be beneficial. In their narratives, common themes that emerged included the experience of social isolation, and the importance of key supports. Almost all the participants shared that they had minimal contact with their families, and their lives were characterized by loneliness. This shared experience of loneliness and lack of supports in their personal lives may have contributed to why identifying key supports emerged as a separate distinct theme. Participants identified key individuals who appeared to believe in them, and contributed to their success in the MHC. In one example, the key individual was identified as the judge presiding over the MHC, who motivated a feeling of not wanting to 'let them down' by relapsing; in most cases it was the collective efforts and dedication to participants shown by helpful people who were honest and trustworthy. Another theme that arose from these

interviews was the descriptions of participants own coping strategies that were outside of instructions given by the court that contributed to their well-being, such as alternative health approaches, self-medication, and strategically using illegal substances as a method of securing safe spaces to sleep such as rehabilitation facilities. Finally, all participants described having experienced violence throughout their lives, including often from police and court workers.

Nordberg's (2015) study captured a more in-depth understanding of the personhood and life experiences of participants in the court when compared to previous studies. Highlights were that MHCs have the potential to change lives, but methods of doing so cannot be isolated from the participants' life experiences, so considering the court process in isolation is unlikely to create great changes. Nordberg (2015) noted that participants experience marginalization from many directions, including social isolation, poor access to services, homelessness, stigma, and violence. Furthermore, few participants indicated that there was anything inherently therapeutic about the court process itself, but they recognized that if the MHC was able to assign appropriate charges and accompanying conditions, which facilitated accurate diagnoses, effective treatment, and access to the right resources, it could improve their lives.

2.2.3 Gaps in the Literature

The majority of studies that sought a participant perspective are quantitative in nature and identified and measured predetermined variables that were presumed to contribute to the success of MHCs. These studies are limited as they used a deductive approach by identifying a concept, such as therapeutic jurisprudence or procedural justice, and then proceeded to assess the degree to which this concept was prevalent. Although the information these studies gathered was valuable, they started from a point of presuming what was important from a professional perspective, and measured that variable. These studies do not attempt to discover what made the

courts successful from the perspectives of those on the receiving end of the process, and overlooked the important nuances that qualitative research can offer. The only exception at the time of this study was Nordberg's (2015) phenomenological study that was completed with participants in a MHC in Toronto, Canada.

2.3 Summary of the Literature

There are very few studies of MHCs that have focused on listening to MHC participant voices. Of those which have sought participants' involvement, most have set out to measure predetermined variables that can only be measured subjectively, such as procedural justice and perceived coercion. These studies give reassurance that the MHCs studies are functioning as intended, and are succeeding at implementing the principles of therapeutic jurisprudence.

Although these types of studies do lend some understanding to why MHCs work, they do not fully explain what elements of MHCs catalyze positive change, stability, and reduced unlawful behavior in participants. Researchers primarily from the social work discipline have shifted their attention away from using interviews to evaluate how well predetermined MHC principles are applied, toward exploring what participants have to say more broadly (Canada & Gunn, 2013; Canada & Ray, 2016; Nordberg, 2015). Researchers have learned that participants do not measure success in the MHC in terms of recidivism; reduced recidivism is perhaps a side product of increased stability, improved relationships, and quality of life (Canada & Ray, 2016). They also learned that there are many elements that were not necessarily inherent in the MHC which contributed to participant success, such as support networks, access to treatment, and positive reinforcement (Canada & Gunn, 2013).

Qualitative studies of an exploratory nature have additional ability to discover elements of an experience which are not as intentionally predetermined by the researcher. Nordberg's

(2015) study highlighted this in demonstrating that participating in an MHC was an important juncture, but it occurred within a greater context of participant's lives, which she discovered are marked by marginalization, victimization, and adaptations necessary for survival and well-being. When participants spoke about the influence of the MHC, they discussed relationships more than procedures (Canada & Gunn, 2013; Nordberg, 2015). These findings remind audiences of the humanity and struggles of the participants in the court, and highlight the importance of connecting with people on an individual level to affect positive change.

The focus of this study is intended to add to the limited body of literature which explores the experience of participants in MHCs with the goal of contributing to quality improvement. Gathering insights from participants and their support persons who are the people impacted most by the court process may contribute to improving how MHCs can meet their needs, and reduce likelihood of further unlawful behaviour.

Chapter III – METHODOLOGY

Researchers who conduct qualitative research assume that people who have lived through an experience are the experts of that experience (Patton, 2015). Interpretive description (ID) is an approach to qualitative research that encourages applying techniques from other qualitative research methodologies in order to develop a study that is tailored to learning more about complex problems, particularly when actionable results are desired as a product of the research (Thorne, 2016). This chapter will explain key aspects of ID as an approach to qualitative research, outline the study design, data collection and analysis, ethical considerations, strategies used to ensure quality of findings, and limitations to this study.

3.1 Interpretive Description (ID)

With a background in the nursing profession, Thorne (2016) describes ID as an approach to qualitative research that fits best with research in applied disciplines such as education, health, and in this case, the intersection of health and law. ID is gaining popularity among health researchers due to its explicit goals of producing information that can be acted upon, rather than constructing a theory for the goal of producing knowledge that may be meaningful, but does not have immediate application (Thorne, 2016). The goal of any study that takes an ID approach is to reveal information that assists in optimizing care or other person-centered outcomes (Thorne, 2016). For this reason, an ID approach to examining the court through participants' perspectives has potential to provide a new angle of understanding of how this type of court achieves better criminal justice outcomes, presumably through improving the health and well-being of the participants going through it.

In contrast to many previous studies on MHCs which deductively attempted to measure predetermined variables, ID takes an inductive approach to learning about a given experience

(Thorne, 2016). Qualitative data is better able to portray a nuanced perspective regarding topics such as what factors led to participants choosing the MHC, to adhering to treatment, maintaining health, and avoiding criminal behaviour following the court process. Asking broad, open-ended questions allows participants to identify what stood out most to them throughout their experiences in court, which may include elements that researchers may have overlooked from an outsider perspective.

Thorne (2016) outlines that in order to be credible by ID standards, in addition to standard qualitative criteria for rigor (epistemological integrity, representative credibility, analytic logic, and interpretive authority), ID proposes that research should also be morally defensible, relevant, pragmatic, and contextually aware. I have chosen ID as the methodological approach for this study as ID recognizes that nurses and other health care professionals (HCPs) have a moral obligation to be present in contexts that influence the health and well-being of a population. The justice system is not a typical setting where HCPs are present, however health professional knowledge, perspective and research contributions have great relevance and potential to improve alternative justice interventions. In the context of procedural law, HCPs may not have a strong knowledge base or influence. However, they are more informed in the context of mental health and understanding the psychology and pathophysiology behind cycles of violence and addiction. Furthermore, HCPs are also educated to these pathologies in a subjective and holistic manner, whereas lawyers and judges are trained to apply objective reasoning to court proceedings. I chose to use an ID approach to this study as I wished not only to learn more about the experiences of participants in the MHCs, but also wanted to uncover information that may contribute to improving MHC outcomes for participants, particularly in terms of their personal wellness.

3.1.1 Disciplinary and Theoretical Orientation

As a registered nurse (RN), I have a lens which is more likely to view the participants of MHCs as 'patients' or 'clients' and interpret the term 'therapeutic' in a more healthcare oriented fashion than researchers with a legal lens. I have very limited knowledge about the legal system, which is likely a significant difference between myself and others who have conducted research in this area. This unfamiliarity offered an opportunity to genuinely learn about the court from the participants as primary sources of information, but it may have also limited my ability to conceive of what is appropriate decorum in a court context, or what is realistic or pragmatic in terms of modifications to court structure and function.

Notable characteristics of a nursing orientation in qualitative research are a drive for creating a study with findings that will have useful application to modify processes that will improve client outcomes, and be of some ultimate benefit to the patient or system that serves them (Thorne, 2016). There is a high value placed on human experience being positive as a central indicator of good practice (Thorne, 2016); the quality of offender experience in particular is likely not a measure that courts traditionally have used to evaluate the quality of their functioning. Nursing also recognizes that although many human experiences are shared, they are not generalizable, so although much may be learned from people experiencing similar situations, findings must not make claims about their applications to other people or contexts (Thorne, 2016). Other dominant concepts that nursing and allied health professions are striving to improve at this time are client-centered care, and inter-professional collaboration. Both of these concepts have a notable influence on the way I viewed the court proceedings, and interpreted data collected from interviews.

Finally, during the interview process I encountered several narratives which I suspected might have distorted how events would be perceived from an objective perspective. In these cases, rather than discounting the narrative as being irrelevant and removing them from the data set, I chose to interpret these descriptions as factual encounters, with the rationale that in that moment, the way the events were described was the reality as experienced by the participant.

There are number of common traits that appear in the nursing literature, due to a shared epistemology and disciplinary orientation. The following traits resonate deeply with me professionally, as a registered nurse:

> Qualitative nursing inquiry always involves a normative moral imperative in the sense that the problem to be studied should be justified as a clinically relevant instance that ought to be improved upon. It tends to favor individual interviewing as a primary data source, in keeping with human connectivity that is central to enacting professional practice. In its depiction of findings, it steers clear of over-generalization of patterns where that might obscure the sorts of contextual and sociocultural diversities one would encounter in the clinical context. And in drawing conclusions from any study, it assumes that ideas exist for the purpose of being put to some use to the ultimate benefit of patients or systems that serve them. (Thorne, 2016, p. 74)

Healthcare trends such as client-centered care strongly motivated my desire to focus this study on the participant experience rather than the professional stakeholder experience. I recognize that in the criminal justice system, ultimately the 'client' is the general public, or the victim, however this study places the MHC participant, or defendant, as the client.

Other methodologies such as Grounded Theory prompt a researcher to "bracket" or suspend their previous understandings and experiences in relation to the subject matter they are studying, however ID methodology prioritizes transparently acknowledging professional and personal knowledge over claiming to separate existing knowledge from a researcher's interpretations (Thorne, 2016). Keeping with the ID methodology, I do not claim to have bracketed my own biases, however, I did pay specific attention to my own emotions and perceptions while observing court proceedings, prior to commencing interviews, and throughout the interview and analysis process. As these surfaced, I acknowledged and reflected on them through keeping a research journal (Thorne, 2016).

During the analysis phase I made concerted efforts to include statements from *each* study participant, and *only* participant statements in the results section, leaving professional interpretation out of the findings. The nursing lens was reintroduced in the discussion section where a clear healthcare lens is apparent in the allocation of data into themes.

3.2 Study Design

This study was designed as a qualitative component of a larger study evaluating the effectiveness of the SMHSC, and as a requirement of a Master of Nursing degree at the University of Saskatchewan. Once ethics approval was received for my thesis research I personally performed all recruitment, data collection, transcription and analysis with ongoing consultation with my research supervisor who is a tenured associate professor in the College of Nursing. Additional periodical consultation with the full thesis committee was also sought.

3.2.1 Ethics Approval

This study was reviewed and approved by the Behavioural Research Ethics Board at the University of Saskatchewan; reference number BEH# 14-290 (Appendix A). In addition to

ethics approval from the University of Saskatchewan, this study was approved in a memorandum of understanding between the former Saskatoon Health Region (Saskatchewan Health Authority as of 2017), the Saskatchewan Ministry of Justice, and the University of Saskatchewan.

Various additional ethical considerations were taken into account, as the sample population had several vulnerabilities due to potential mental illness, intellectual disability, history of trauma, poverty, low education, housing instability, unemployment, and high incidence of co-occurring substance use (DiMatteo, Haskard-Zolnierek, & Martin, 2011). There was also a risk that participants could mistakenly perceive that participation in the study could have an influence over their court proceedings, particularly if they were recruited or referred by a court team member.

I reviewed consent forms with all study participants prior to commencing interviews to outline potential risks and benefits to participating in the study. A different consent form was prepared for interviewees who were SMHSC participants and interviewees who primarily supported SMHSC participants (Appendices B and C). In order to mitigate potential low levels of understanding, consent forms were written at a basic reading level, and were read aloud with all participants. I verified participant comprehension of the study and consent parameters by asking the participants questions to assess their understanding, and offering opportunities to ask questions throughout the interview process.

The majority of the participants had already received their sentences from the SMHSC, so the potential for the perception that participation would be viewed favorably by the court was minimal as they no longer had court involvement. Due to the adversarial nature of the court process and a common desire to be viewed favorably by the prosecuting lawyer or the judge, no referrals were sought from anyone in these roles. For any participants who were still actively

involved in the court process, more time was spent explaining that their participation in the study was confidential. I reinforced with the study participants that whether they decided to do the interview or not, even if the very person who referred the participants asked how the interview went the person would simply be thanked for their referral without disclosing participation or details.

In anticipation of the potential for interviews to trigger recollections of traumatic experiences, recruitment material sent to organizations that had high likelihood of being in contact with former SMHSC participants specified to not propose participation in the study to anyone that the organization felt may be at risk for being triggered. The recruitment procedure also encouraged study participants to do the interview with their choice of support person present or without. A pamphlet of community resources was prepared and brought to all interviews in the eventuality that any referrals were necessary. My background as a registered nurse with experience in forensic mental health was beneficial in supporting participants during and following their interviews on several instances when my professional judgement indicated that certain education would be beneficial to the participant, such as information about community resources, or medication side effects. Several referrals to employment agencies and recreational supports were provided, however no referrals for additional mental health support were deemed necessary.

3.2.2 Sources of Data

The primary sources of data for this study were the participants of the SMHSC and other people who closely supported the SMHSC participants throughout their time in court. The secondary source of data included my own documented observations of the court proceedings and reflections on them from September 2016–June 2017.

3.2.2.1 Study participant inclusion criteria. Inclusion criteria for participation in this study was very similar to inclusion criteria for the SMHSC. For inclusion in the study, participants had to be at least 18 years of age, diagnosed with mental health issue or intellectual disability, were deemed low risk to the public, and had not committed a major crime such as murder or manslaughter. Ideally they had completed their proceedings, and would have experienced both the conventional court process as well as MHS court, which would allow them insights into key differences they experienced. Study participants whose involvement was supporting a SMHSC participant also had to be at least 18 and must have attended court with the participant on at least one occasion. Additionally support persons had to be aware of the general proceedings, and the mental health state and general disposition of the SMHSC participant during the period of time that the SMHSC participant was in court. As the SMHSC court is in Saskatoon and conducted in English, participants all lived in Saskatoon, and were fluent in the English language.

3.2.2.2 Recruitment strategy. Recruitment of participants occurred between March–August 2017. As this is a traditionally hard to recruit population the recruitment strategy was multifaceted. Recruitment posters (Appendix D) were hung in conspicuous locations in downtown Saskatoon. Several agencies that support participants of the SMHSC agreed to hang the posters within their organization or outside of it. These organizations include the FASD Network, the Friendship Centre, Crocus Co-op, Community Legal Assistance Services For Saskatoon Inner City, Inc (CLASSIC) and the Lighthouse. Key stakeholders were contacted by email or by telephone to inform them of the study, and their assistance was requested. These stakeholders included but were not limited to Legal Aid Saskatchewan, the FASD Network, Saskatchewan Alternative Initiatives, the Friendship Centre, Crocus Co-op, Saskatchewan

Probation Services, Saskatoon Crisis Intervention Services, CLASSIC, Salvation Army, the Lighthouse, Elizabeth Fry Society, John Howard Society, Canadian Mental Health Association, Saskatoon Health Region Mental Health Services, and several private lawyers known to have represented SMHSC participants. Key stakeholders were provided with recruitment support letters (Appendix E), and recruitment information letters (see Appendix F) to share with potential participants, which outlined the purpose of the study, inclusion criteria, incentives in the form of gift cards that would be provided to the participant, and contact information for the research team. The recruitment support letters clearly urged recruitment partners to not discuss the study with clients if they felt it could interfere with their professional or therapeutic relationship with the potential participant, or the services that they provided, in order to prevent potential coercion or harm to the participant. Organizations who expressed interest in assisting with recruitment were given additional orientation. One agency offered to make telephone calls to clients who were known by them to have participated in the SMHSC in the past, using a standardized script that was developed in response to their offer (Appendix G). Finally, on SMHSC dates during the recruitment period, prior to the commencement of court proceedings, the judge offered me a brief opportunity to explain the study to anyone in attendance at that time, and invite anyone interested in participating to meet with me. I did not directly approach active SMHSC participants or families, as this was deemed to be too potentially coercive by the University of Saskatchewan Ethics Review Board.

Incentives for participating in the study included providing a gift card worth $20 to each person who participated in the interview, whether they were direct SMHSC participants or support persons. A selection of gift cards from various retailers was offered in an attempt to offer something of value to participants.

A purposeful sample of maximal variation to capture various angles of the SMHSC experience was sought (Patton, 2015; Thorne, 2016). Variation was sought specifically in terms of age, gender, and ethnic background, nature of charges, primary diagnosis, dominant supports, and legal support. After most interviews had been conducted, the sample lacked inclusion of participants living with FASD, and participants who had private legal representation, so additional efforts were made to successfully recruit additional participants with these traits. The final sample size was 17 people (11 participants and 6 support persons), representing the court proceedings of 14 different SMHSC proceedings. Ten interviews were with a SMHSC participant alone, two interviews were with a sole family member who had accompanied the participant to court (SMHSC participant was not present), and two interviews were with professional support persons who interviewed in pairs (in one case, the participant was also briefly present). Saturation was not a realistic goal due to study size and high variability in population. Without requiring additional efforts, the sample naturally included people who had a full spectrum of very positive to very negative experiences in the SMHSC. Had this not naturally occurred, outlier sampling (Patton, 2015; Thorne, 2016) to capture either ends of the spectrum would have also been attempted. Recruitment ceased after the sample appeared to mirror the population in the SMHSC and contained at least one participant representing any characteristics that was suspected may significantly influence their experiences in the SMHSC. Thorne (2016) states that a sample size is appropriate when it can adequately answer the research question being posed. This final number and variation in participants was deemed consistent with adequately answering the research question of "What is the experience of participants and their support persons in the Saskatoon Mental Health Strategy court?"

The study was initially designed with intentions to interview participants with support persons present. Reasons to include the support persons were to facilitate comfort in the event that discussing the experiences was emotionally difficult for the SMHSC participant, to supplement their memory in the case that they were unwell at time of proceedings or had cognitive limitations, or to offer multiple perspectives on the experience. In actuality all SMHSC participants who agreed to an interview elected not to bring a support person with them, and all but one support person elected not to include the participant. The SMHSC participants stated that they did not want to burden anyone else with the time required to complete the interview, expressed that support was not required, or that they did not have any significant supports throughout their SMHSC process. When support persons were primary interviewees they either felt that discussing the SMHSC experience would likely trigger a traumatic response from the participant, or that at the time the interview was conducted, the participant was unable to effectively relay their experiences for various reasons.

3.3 Data Collecting Procedure

Interview data was collected through audio-recording each interview. Observations of court proceedings were used to triangulate the data. These field note observations were recorded in a research journal.

3.3.1 Interviews

Face-to-face semi-structured interviews, were conducted with all study participants. Interviews included a series of general questions designed to draw out the participant's understanding and experience in the mental health court, particularly in the areas of 1) general experience (*e.g., "What was it like going through the mental health court?", "How were you treated?", "How did you feel?", "What were the most challenging parts?", "What were the*

most helpful parts?"); 2) understanding of the process (*e.g., "How did you choose the MHS court instead of the regular court?", "Did you understand everything in the process?", "Did you make any promises with the court?", " How much say did you have over the suggested plan or promises?")*;* 3) self-identified impact on the participants life (*e.g., "Did the mental health court have any impact on you and your life i.e., housing, health & well-being, encounters with police, family, work or social life?");* and, 4) suggestions for improvement (*e.g., "Is there anything that you would change about the mental health court? Was anything missing? How could it be better?").* An interview guide (Appendix H) was used to facilitate the interview, however the sequence of the guide was not always followed verbatim. In accordance with the semi-structured interview format, not all questions were asked, some were modified, and follow-up questions were used for clarification and deeper understanding or to explore themes that appeared to be emerging from previous interviews. For example, "*Did you understand?" "Who supported you most?"* and "*How did you feel when you were there?"* are examples of questions that were added to the question bank as the data collection progressed.

3.3.1.1 Interview locations. Interviews were conducted in a variety of locations that were mutually agreeable to the interviewee and the researcher. These locations included interview rooms at the University of Saskatchewan, private rooms offered by community agencies that supported former SMHSC participants, a public restaurant per participant request, and at the residence of one support person on their request. In the instance that the interview was conducted at a private residence, a trusted third party was informed of the location and anticipated timeline for the interview completion.

3.3.1.2 Transcription and data storage. Participants were given the option to conduct the interview without the recording device, however all participants consented to being recorded.

I personally transcribed all interviews verbatim, which allowed for early review and preliminary analysis of the interviews. The recording device and consent forms were stored in a locked filing cabinet when not in use. Transcripts were stored electronically on a password protected computer, and in a locked filing cabinet when printed for analysis purposes. Participant names and contact information were stored in an electronic file with password protection. Transcripts were sanitized of all names, locations, service providers, and agencies prior to being shared with the supervisor for review and collaboration.

3.3.2 Field Notes

I attended the SMHSC in the role of a research assistant for the Center for Behavioural Science and Justice Studies (CFBSJS) from September 2016–June 2017 in fulfillment of requirements of a graduate scholarship. During this period of time I also gathered field notes with descriptive data on the physical setting, structure, function, and roles of the court as well as my own reflections and observations of court dynamics.

3.4 Data Analysis

Interpretive description methodology borrows data analysis strategies from other methodologies, particularly grounded theory (Thorne, 2016). Consistent with grounded theory methodology, open, axial, and selective coding were used when I performed my data analysis (Patton, 2015; Thorne, 2016). Other elements of grounded theory, such as bracketing were not performed, as Thorne's (2016) ID approach assumes that a researcher's experiences and knowledge can never fully be separated from their analysis, and that claiming to do so is disingenuous. Rather than claiming that effective bracketing occurred, I have described my disciplinary positioning, reflective processes, and analysis process in detail below, allowing

readers to determine the merit of my findings to their own disciplines based on the full disclosure of information provided (Thorne, 2016).

3.4.1 Coding

Keeping with grounded theory tradition, coding was performed in three phases: open, axial, and selective. This process allowed me to create a certain degree of separation between the data and knowledge of the participants during the analysis phase, despite having performed both the interviews and transcription. Knowledge of the interviews as a whole were reincorporated after themes were developed to evaluate the 'fit' of the findings with the overarching narratives.

The first pass of open coding was performed line by line to deconstruct whole interviews into very small bits of information, describing what was said rather than interpreting it. Constant comparative analysis was done at this stage, which helped to get an early sense of themes or relationships between the experiences of various participants. In order to mitigate early interviews from having undue influence over subsequent coding, any insights or powerful quotes that could distract from future analysis were preserved in a separate document to reduce bias in coding subsequent transcripts. The information was physically separated from the transcripts to increase anonymity and give equal weight and consideration to each participant's contributions. Thousands of information bits were then grouped together with statements reflecting similar concepts. Approximately 120 labels for concepts, or codes, were developed at this stage.

Once all of the statements had been categorized into codes, relationships between them were contemplated to begin axial coding. The first pass at axial coding arranged codes in a descriptive narrative format. The codes were grouped based on 1) participant descriptions of themselves and what led them to the SMHSC; 2) the SMHSC structure, function and roles; 3)

how they felt emotionally when they were in court; 4) the impact that they feel going through the SMHSC had on them; and 5) any recommendations that they have for the court. The data was then triangulated with my observations and notes made about the court structure, function and roles.

The narrative that emerged from the first pass at axial coding gave an effective organizational structure that allowed valuable insights into the participant experiences, however did not offer an interpretation of the experiences or capture themes that were woven throughout all interviews. Discussing the findings with my committee, and reflecting on the importance of what participants had shared, allowed an overarching theme of trauma to emerge.

Considering the impact of trauma on participants, and the extent to which trauma informed principles (TIPs) were present in their experiences appeared to give better insight into why certain participants described more meaningful and impactful experiences with the SMHSC compared to others, who described their experiences in extremely negative terms. All recommendations made by participants to make the court process better also directly related to recommendations inherent in the literature on trauma informed approaches (TIAs).

Once this theme was developed, I reviewed transcripts for cases that confirmed or contradicted themes and further reviewed academic literature for deeper understanding of the emergent concepts and verification of 'fit'. The findings were compared to existing literature on TIA in the criminal justice system, and the potential to incorporate TIAs in to MHCs.

3.5 Quality and Validity

Each qualitative methodology has a unique set of criteria by which the quality and validity of the research it produces is evaluated. Although each approach has different labels, their premises are quite similar. An interpretive description (ID) approach synthesizes these

criteria into general principles that capture indicators of quality across the methodological spectrum. The standard principles of evaluative criteria per Thorne (2016) are: epistemological integrity, representative credibility, analytic logic, and interpretive authority. Thorne (2016) suggests five additional principles of evaluative criteria for research conducted with an ID approach: moral defensibility, disciplinary relevance, pragmatic obligation, contextual awareness, and probable truth.

3.5.1 Epistemological Integrity (EI)

Thorne (2016) defines EI as "a defensible reasoning regarding assumptions made about the nature of knowledge" (p. 233). In order for a researcher to achieve EI they must demonstrate that their research question, data collection, analysis, and results align with their stated epistemological positions. This study was approached with the assumption that the participants of the SMHSC are the experts of their own experience and keepers of the truth of their experience. Knowledge of the experience can only be gained through having them recount their own experiences. To honor the participants as holders of the truth of their experience, during interviews deeper understanding was sought when participants shared information that was contradictory to my own understanding, and no attempts were made to 'correct' the participant if their understandings were not reflective of my own observations or understanding of standard criminal justice procedures. Some elements of the participant narratives were likely to be factually inaccurate, and some of their perceptions appeared to be distorted, for example how "harsh" a sentence was in relation to the unlawful behaviour demonstrated. To honor the participant's truth and maintain EI, a conscious decision was made to include all significant experiences, regardless of their potential to be interpreted as being inaccurate to an outside observer.

3.5.2 Representative Credibility (RC)

Thorne (2016) describes that in order to show representative credibility, a researcher's claims must be "consistent with the manner in which the phenomenon under study was sampled" (p. 234). Prolonged engagement with the phenomenon, seeking maximal variation in the sample, triangulation of data sources, and being conscious of making claims that are proportionate to the sample are all ways of achieving RC. Engagement with the SMHSC was achieved through attending and observing each court date for 10 consecutive months while the study was being developed, approved, and throughout the recruitment process. Due to a year-long absence from the court prior to data analysis, my attendance and observation of the SMHSC resumed while data analysis was underway. In order to compare the SMHSC to conventional court, I also attended conventional court on two occasions. As described previously, maximal variation in the sample was attempted, resulting in a sample that provided perspectives from each 'category' that was clear to identify (e.g., gender, age, ethnicity, diagnosis, nature of charges, positive/negative experience, and legal representation). Participant descriptions of the SMHSC proceedings were triangulated with documentation developed from my own observations of the court proceedings. In order to avoid the research observations and field notes from being confounded with participant descriptions, the two were kept separate when describing findings.

3.5.3 Analytic Logic

Researchers can demonstrate analytic logic by clearly demonstrating the reasoning they used in making decisions about the study and the findings, such that another researcher with the same data set could presumably follow the same reasoning pathway and come to similar results (Thorne, 2016). Every attempt was made to demonstrate the logic behind making key decisions in developing the study question, design, recruitment, and analysis. An audit trail of various

considerations for key themes was kept as part of a research journal. The research supervisor reviewed all transcripts, and discussed significant decisions about the construction of themes to verify the appropriateness of each major decision. The themes used participants' verbatim accounts to illustrate the data used to develop them.

3.5.4 Interpretive Authority

Thorne (2016) describes interpretive authority as an assurance that researchers' interpretations reflect truth that is external to their own biases or experiences, and represent claims of the participants rather than themselves. One example of efforts to prioritize the participants' truths over my own was when I became aware of my own bias towards a certain interviewee having distorted perceptions. When I recognized this, I made additional efforts to anonymize the data so that they would not be subconsciously overlooked. Member checking is another strategy that researchers commonly use to ensure researcher interpretations are consistent with study participant experiences. Upon completing the initial interview participants were asked if they would be interested in doing a follow-up interview for member checking. I attempted to contact those interview participants who were interested in a follow-up interview once all data had been collected and analyzed to ensure the key themes identified in their transcripts were not misunderstood or misrepresented in the study results, and that no key aspects of their experience were overlooked. Follow-up contact was attempted through the same means that initial contact was made, or in some cases when a phone number was provided during the initial interview, a follow up phone call was made. Due to a significant passage of time of approximately two years between the initial interviews and readiness for member checking, I was only able to make contact with three interview participants for member checking. Once they were contacted, a summary of the key themes gathered from their own interview, as well as a

summary of how their experiences fit in to the overall themes of the study was provided to them. Each interview participant who was contacted stated that they felt they were well understood and accurately represented in the study.

3.5.5 Additional Criteria in ID

This study claims to be *morally defensible* because the findings have potential to be used in a way that improves the wellness of future SMHSC participants. This in turn may also reduce unlawful behaviour, thus also benefitting the general public. This study is *relevant* to the nursing profession as it allows a window into seeing how nursing knowledge is valuable in non-traditional settings, and how nurses may contribute to wellness in environments foreign to their initial education such as courtrooms. This study highlights that legal professionals who are making respectable attempts at improving wellness do not always have the right knowledge and tools to do so, and demonstrates how nursing knowledge can complement these noble efforts. The study meets the *pragmatic obligations* of stating clear limitations to the application of this knowledge, acknowledging that once it is distributed the researcher has no influence over how it is used. Any suggestions that have the potential to be harmful are portrayed as opinion or rhetorical questions rather than firm recommendations. *Contextual awareness* is demonstrated by acknowledging that my own perspective is influenced by having a general comfort and acceptance of the current structure of the criminal justice system which privileges citizens who resemble me over citizens with fewer societal advantages, and a clinical perspective of mental illness. These privileged perspectives shaped every aspect of the research design, and limit findings to realms which do not significantly challenge the status quo. This is in part due to a desire to create findings which are pragmatic, but is also likely a reflection of the fact that I have not personally experienced injustices as a result of these systems. The findings reflect the

probable truth as recounted by participants, however even how they interpret their own experiences is subject to change over time as the impacts of the court become more clear to them or new perspectives are gained. This study makes no claims about universal or absolute truths.

3.6 Situating Myself as a Novice Nursing Researcher in a Foreign Legal Environment

The first time I entered the courthouse I felt nervous. Even as a visitor simply there to observe, with no charges or cause for concern, I felt very aware of my every move, and simply wanted to not be noticed, for fear of being judged or getting reprimanded. Despite having innumerably more positive professional interactions with police officers, and minimal history of 'getting in trouble' with the police, limited to one or two speeding tickets, and no memorably unpleasant interactions, I still associate interactions with uniformed officers that I have not initiated myself as negative and undesirable. If this is how I felt, as someone there by choice, how much more self-conscious and nervous must people who are there to address charges feel? Over time entering the courthouse and courtroom became second nature, and much more comfortable for me, as someone who was there by choice, and with a purpose related to my occupation. I began to draw many parallels between the courtroom and hospitals, and between the SMHSC participants and patients.

The courtroom, similar to the hospital, is where most people come when something is wrong. Except for the staff that work in the hospital, no one goes there by choice, but we as staff quickly forget that. An unpleasant and often frightening event precedes the need for attending the hospital, or court. Outsiders entering these foreign environment experience many cues that signal to them that this space wasn't designed for their physical or psychological comfort, but rather to support the functions of those who work there. The professionals who work in the environment dress more formally than the outsiders, and speak in jargon that diminishes understanding. The

chairs for staff are comfortable, but for visitors the chairs are hard, plastic, and physically separated from staff. Although the power dynamics aren't stated, they are implicitly communicated, by the setup of the space and the difference in body language between professionals which is cordial and warm, and with outsiders which is succinct and directive. Outsiders enter the environment with many unknowns, and although they have some influence over the outcomes of their diagnosis or charges, the results are largely out of their control, and a very large amount of trust must be placed in the hands of physicians or lawyers which they have limited access to.

However, in a hospital, outsiders come with the assumption that all the staff is there to help, whereas in a courtroom, the roles are varied. Prior to attending court, likely largely due to media portrayals, I perceived the defense lawyer's role as representing the disadvantaged defendant's interests, the prosecuting lawyer's role as seeking punishment, and the Judge's role as weighing the two arguments, and deciding the defendant's fate. I imagine it must be confusing as the defendant to come to court and observe the two lawyers, apparently on opposing sides, being very cordial with each other, referring to each other as "my friend", and often even joking around. Meanwhile, the defendant has been told not to speak unless specifically given direction to, which puts more pressure on the few opportunities they have to speak, to say the 'right' thing – in front of an authority figure, and a crowd of 40-60 other people. As they speak, both lawyers can often be seen flipping through papers which could be interpreted as them caring very little about what happens to the defendant at the end of the day. I believe if I was in this situation, it would undermine my trust in the person defending me, and the system as a whole.

Reflecting on my own experiences as an observer of the court, I felt that if court was stressful, intimidating, and confusing for a healthy, educated person without charges such as

myself, it must be so much more stressful, intimidating, and confusing for defendants in the SMHSC, who come with multiple charges, and who also live with mental illness and/or intellectual disabilities.

CHAPTER IV - FINDINGS

4.1 Description of Saskatoon Mental Health Strategy Court (SMHSC)

In this chapter, I will first describe the physical setting of the mental health court to provide the context of where and how the interactions take place in the SMHSC. Understanding the physical environment, and how the SMHSC functions will provide the background context prior to introducing the study participants, their demographics and findings from the interviews.

4.1.1 Physical Setting

The SMHSC is housed within the Provincial Court building in Saskatoon. Immediately upon arriving to the building, a formal, scrutinizing air is established. The general public, including court participants, enters a very small room staffed with several uniformed court sheriffs. Anyone without security clearance must pass through a screening checkpoint metal detector and have their personal belongings scanned by an x-ray machine, similar to that used at airport security. Food and drink are not permitted in the building and must be left behind on open shelves, to be picked up upon exiting the building. Within visual range there is a separate entrance for court staff, who do not pass through any security checkpoint and are not required to leave anything behind, visually signaling two tiers of status and trust. The SMHSC is held in a small courtroom at the end of the hall. The courtroom itself is locked until the court team arrives, so there is often a crowd of 20-40 people lingering in the halls prior to the doors being opened. There are not enough chairs for everyone to be seated, so some are seen pacing the hallway. There is very little conversation or eye contact between the people waiting to enter the courtroom.

The room itself is sparsely decorated, with wood paneling on the walls, and the Canadian and Saskatchewan flags hung to the right and left of the bench respectively. A picture of the

Her Majesty Queen Elizabeth II is hung behind the judge's bench. There is no other décor to represent anything other than the traditional cultural symbols representing the power of the government and the court. The judge's bench is in the front of the room, distinctly elevated from the rest of the courtroom, facing the court attendees. Positioned immediately below the bench are desks and padded office chairs for court clerks, a court sheriff, defence counsel lawyers, and prosecuting lawyers (See Figure 4.1).

A wooden barrier physically separates the legal team and court staff from the gallery, where court participants, family or other support persons, and the general public are seated in uncomfortable plastic chairs. Additional SMHSC team members such as the parole officer, community mental health nurse, and representative from the FASD Network also sit among the gallery, often within the front rows. This court is open to the public, so on occasion there are students of various disciplines, researchers, or journalists present.

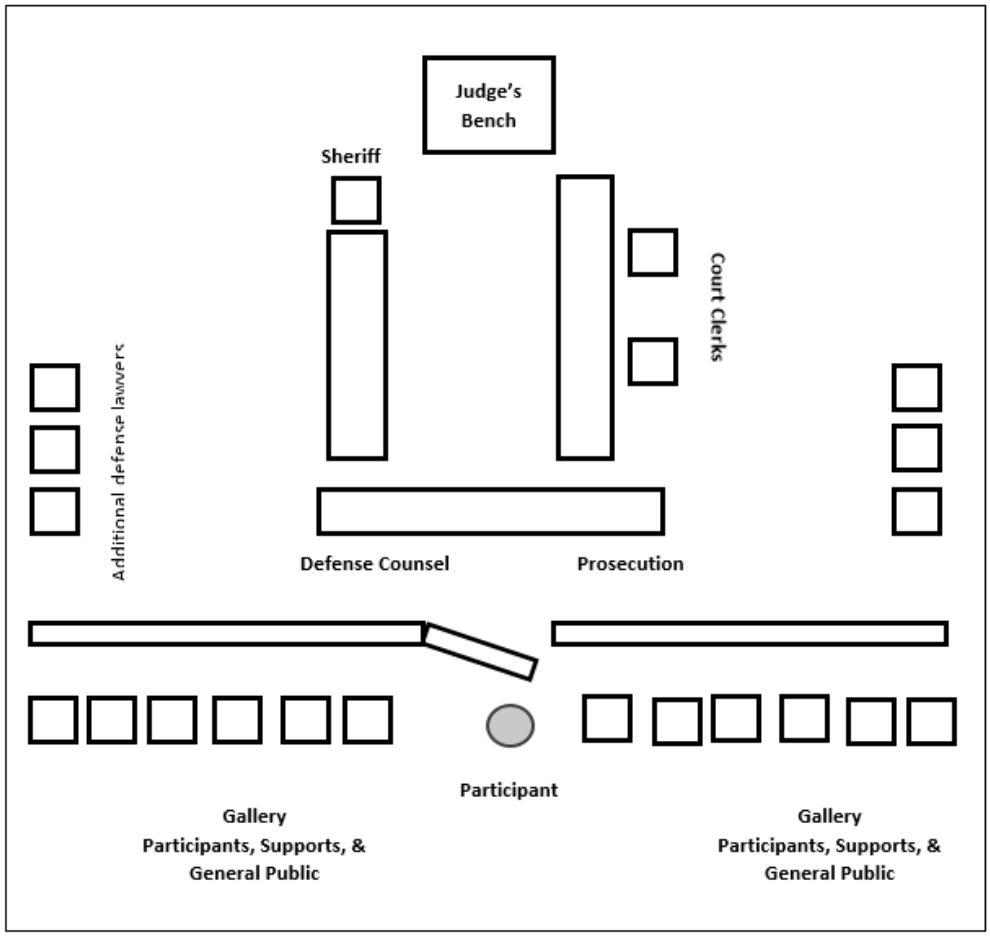

Figure 4.1 SMHSC Physical Layout

4.1.2 Function

Operation of the SMHSC is slightly different from conventional court. How the SMHSC functions is described below with regards to the composition of the SMHSC team, the pre-court meeting, the process in open court, and the differences I observed in SMHSC from the conventional court.

4.1.2.1 SMHSC team. The collection of people on the interdisciplinary team that is involved in the SMHSC is relatively very consistent. In terms of the legal team, there are only three or four judges that preside over the SMHSC, the vast majority of participants qualify for Legal Aid support with representation from the same defence lawyer, and a single prosecuting

attorney is assigned to cases in the SMHSC, with the exception of cases which are under federal jurisdiction. When possible, each judge attempts to adjourn individual cases to dates when they will personally be presiding so that they can follow a participant through the process. Additional team members include a probation officer who may meet with SMHSC participants between court dates to evaluate their compliance with conditions, a community mental health triage nurse, and a representative from the FASD Network. Having a regular team is in line with previous studies which have shown that having a consistent team that agrees with the philosophy of diversion or alternative courts are important to their success (Schneider et al., 2007).

4.1.2.2 Pre-court meeting. Prior to open court commencing, the SMHSC team gathers for a pre-court meeting lasting approximately one hour, to review the cases of individuals scheduled to attend court that day, and discuss their intentions for each individual that will be presented in open court. This closed meeting is on court record, but it is not open to the public. The SMHSC participants, family members, and support persons are not invited to attend or contribute to this meeting, nor informed of what was discussed in it. In the pre-court meeting the team members speak more openly and candidly about the offense, the mental health concerns, and proposed approaches that will strike a balance between the participant's health and security needs, and public safety. Maintaining this as a closed meeting is intended to respect the confidentiality of the SMHSC participant, keeping discussion about an individual's health separate from the discussion that the general public has access to. In my observations, limited amounts of explorative collaboration and problem-solving are possible due to the sheer volume of cases and short amount of time that is designated to this meeting.

4.1.2.3 Open court. The court room fills up quickly once the closed pre-court meeting is over, the SMHSC team arrives, and the court clerk allows people to enter. Approximately half

the seats fill up with SMHSC participants who are often accompanied by family members or other support persons. Support persons vary from being personal friends, to professional supports such as crisis management workers, community mental health nurses, group home staff, or other support network aides.

There are many elements of the SMHSC that are very similar to conventional court. Where there is some small talk in the hallways as people wait to file into the courtroom, once in the court room noise reduces to brief muted conversations, or the shuffling of papers. No cell phones, food, or drink are allowed. Participants often enter court wearing baseball hats or other headwear and are firmly directed by the court sheriffs to remove them. There is both a physical and social separation between the legal team and everyone else in the courtroom. The lawyers are dressed in professional attire, carrying briefcases and files. They hold themselves with an air of confidence, exchange pleasantries, and appear to be at ease. While there are clear signs that most participants make an effort to present themselves well, they are often wearing clothes that do not fit well, or are in poor repair. Their gazes are often averted, posture is often slouched, and they can be observed wringing their hands, and speaking in hushed tones if at all.

When the judge enters the courtroom in traditional robes, everyone in attendance is directed to show their respect by rising, and remain standing until the judge is seated. During the time that I sat in the court as an observer, one of the two judges that regularly presided over the SMHSC would open court with a statement providing information about the SMHSC to anyone in attendance. This judge informed the gallery that there is an interdisciplinary team present in the court to assist, that participation in the SMHSC is voluntary, that everyone is entitled to legal representation, and that an application for Legal Aid could be made in the building if not done so yet. This judge explained that this court hopes to receive good medical information about each

participant in order to address issues in their lives and make an appropriate plan, and encouraged participants to inform the team of any "practical problems" they are facing. This judge also encouraged participants to introduce any support people that they brought to court with them when they were called up. While this introduction certainly set a supportive tone for the proceedings, only one judge consistently opened court with it. This process also required SMHSC participants to independently seek out the professionals and supports in the room on their own, and to share their "practical problems" or vulnerabilities out loud before the judge, in front of a room full of strangers.

Once the proceedings begin, each case appears to proceed quite quickly and succinctly to an inexperienced observer. Participants are usually called in alphabetical order to stand at the front of the gallery, facing the judge. Occasionally the judge briefly greets the participant, but just as often the participant stands in silence while the legal team speaks about, not to, the SMHSC participant. Communication largely occurs in legal jargon between the judge and the two lawyers (Figure 4.2). The case is referred to by a file number and criminal code number, rather than by describing any details of the event. For example, a common phrase heard in the courtroom may be "In regards to informations 476 and 836, our client wishes to plead guilty to charges 88 and 4". Although referring to charges by stating their criminal code number may help with respecting the confidentiality of the SMHSC participant, this language can make it difficult for SMHSC participants and observers to follow along with what is being discussed, despite knowing that this conversation may have an immediate impact on their life. Usually the defence lawyer proposes the next step for the participant to the judge, the judge asks the prosecuting lawyer their thoughts on the proposal, and the prosecuting lawyer will either challenge it or agree. Brief discussions may occur between the defence and prosecuting lawyers.

The SMHSC participant is rarely engaged in this discussion. Very frequently the exchange centers on the defence lawyer asking for an adjournment to a proposed date for a stated reason such as requiring time to prepare the case, allowing the SMHSC participant to have an assessment done, or continued observation of their progress, and very little other information is discussed. When a decision has been made, the judge gives their approval and will sometimes repeat the decision with the next court date, or give an instruction to the participant (e.g., to attend appointments with healthcare provider or lawyer), and ask the participant if they understand, but not if they agree, or have any alternative ideas, needs, or barriers to following through with instructions given. The SMHSC participant frequently simply states or nods "yes", and is given a piece of paper with the next court date on it as a reminder before the next participant is called. The only time a significant amount of dialogue occurs with the SMHSC is on the date of sentencing, often 12-18 months in to the SMHSC process, when both the defence and prosecution present their perspectives on the case, and the SMHSC participant is invited to add any comments that they may have. This is commonly the first and only opportunity that the SMHSC participant is invited to openly share their perspectives directly with the judge, who ultimately will decide their sentence. Often the decision on sentencing has already been made prior to this opportunity, as it is common for the defence and prosecuting lawyers to prepare a joint submission indicating that they are in agreement with an appropriate sentence. On occasion there is a difference of opinion and they present different sentencing proposals. When this is the case, the defense presents a less burdensome sentence, and the prosecuting lawyer presents a more stringent sentence in terms of length, number, and content of conditions of parole, the dollar amount of a fine, or possible jail time. Ultimately the judge decides on the sentence; if it is a joint submission the judge generally accepts it.

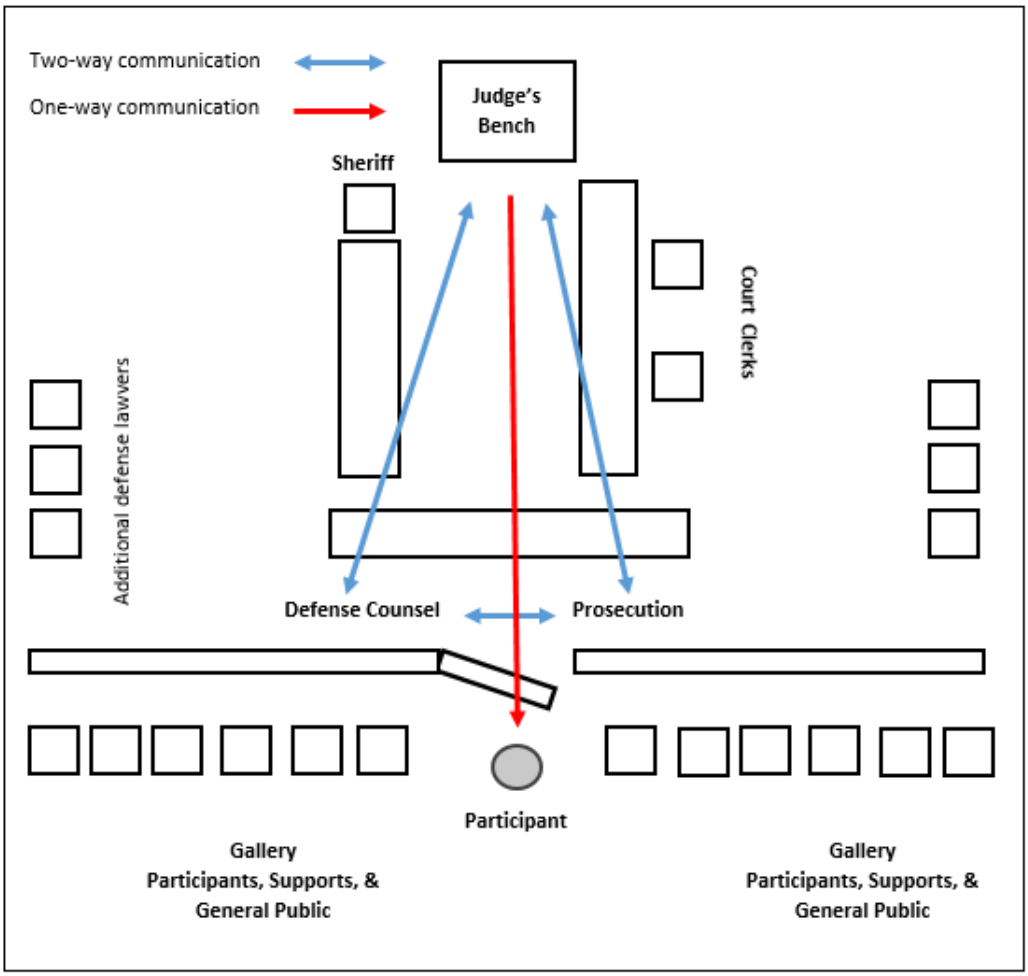

Figure 4.2 Observed Communication Patterns in Courtroom

4.1.2.4 Differences observed in SMHSC. From my observations, there are several ways the proceedings of the SMHSC differ from conventional court. The first is that all cases are quickly reviewed at the beginning of the proceedings, and many cases are set to be brought up again after a planned break. The judge asks the defence lawyer how much time they will need to meet with clients, and the court is adjourned for that period of time, ranging from 10-45 minutes. This is a brief opportunity for the defence lawyer to connect with the SMHSC participants and discuss their cases with them, or for SMHSC participants to reach out to other interdisciplinary court team members. I rarely observed SMHSC participants seeking out interdisciplinary team members at the break, and only on rare occasions, when SMHSC participants appeared to be

unwell did I observe interdisciplinary team members reach out to them. Another difference between the SMHSC and conventional court is that if a participant is not present when called, they are paged throughout the building which is standard procedure, but in addition to this a general survey is done of the courtroom to determine if anyone present knows where the SMHSC participant may be, and one of the court members may have a contact number to reach them with. The participants are given ample opportunity to arrive, and are not rebuked for being late if they do arrive. Finally, as a difference from conventional court, the docket has fewer people on it, and the general tone of the court is warmer and more considerate. While the formality of the court is preserved in most ways, in conventional court it is less common for a judge to greet or acknowledge individual participants, or to ask them if they understand. In the SMHSC, if participants begin to speak before the judge, without prompting from their lawyer, the judge will listen and give gentle instructions to the participant about what may be in their best interest.

4.2 Study Participants

Fourteen interviews were conducted in this study, with a total of seventeen study participants. Eleven interviewees were SMHSC participants, and six were support persons. Of the support persons, two were family members and four were employees of agencies which support persons living in the community who require additional support with daily living activities. I initially intended to recruit participants and support persons together as pairs, however as recruitment was underway SMHSC participants who agreed to be involved in the study preferred not to have support persons present. Support persons who were interested in contributing to the study determined that the participant was either too unwell, or was likely to

be triggered by an interview about the SMHSC. Ultimately only one interview was conducted with both the participant and support persons present (See Table 4.1).

Table 4.1 Interviewee Description and Pseudonyms

Interview/ Transcript	**Description of interviewee(s).** ***Few details are provided in order to protect interviewee privacy/identity.***	**Pseudonym**
Sample of 17 (11 participants & 6 support persons). Total of 14 interviews which included 11 SMHSC participants, 2 family support members, and 4 professional support persons (PSP)		
1	Male SMHSC participant	Ryan
2	Female SMHSC participant	Vicky
3	Male SMHSC participant	Christopher
4	Family member of SMHSC participant SMHSC participant unable to join in interview	Stan (Family) Jake
5	Family member of SMHSC participant SMHSC participant unable to join in interview	Karen (Family) Lucy
6	Male SMHSC participant	Billy
7	Male SMHSC participant	Jesse
8	Male SMHSC participant	Ted
9	Male SMHSC participant	Randy
10	Primary professional support person Second professional support person SMHSC participant briefly joined interview	Lisa (PSP) Helen (PSP) Jane
11	Primary professional support person Second professional support person SMHSC participant unable to join in interview	Dan (PSP) Lynn (PSP) Tony
12	Male SMHSC participant	Kirk
13	Male SMHSC participant	Michael
14	Male SMHSC participant	Dave

4.2.1 Represented SMHSC Participant Demographics

In cases where support persons were interviewed, these statistics incorporate the demographics of the actual participant in the SMHSC rather than the interviewee. Categories are left intentionally broad to protect participant anonymity as the SMHSC is relatively new, and the community is relatively small. Fourteen SMHSC participants are represented. Participants' ages ranged from 18 to over 50 years of age, with 36% being between the ages of 18-30, 36% between the ages of 31-40, 31% between the ages of 41-50, and one participant being over the age of 50. Of the participants, 78% were male, and 21% were female. The majority were

Caucasian (64%), 29% were of Indigenous ancestry and one was an immigrant to Canada (See Table 4.2).

Table 4.2 Participant Demographics

Gender		**Age**		**Ethnicity**	
Male	11	Age 18-30	5	Caucasian	9
Female	3	Age 31-40	5	Indigenous	4
		Age 41-50	3	Newcomer	1
		Age 51+	1		

Information about charges was not explicitly gathered, however the nature of primary charges which participants disclosed through conversation included assault (36%), theft (29%), public disturbance (21%), property damage (14%), and illegal use of substances (7%). Percentages may not equal 100% due to rounding and due to some charges fitting in more than one category. Several participants described substance use (including alcohol) as a factor influencing the events leading to their charges (29%), but it was not the primary charge which brought them to the SMHSC. Self-disclosed diagnoses that contributed to participant eligibility in the SMHSC included a diagnosis of a severe mental illness (MI), such as schizophrenia, other psychoses, mood, or anxiety disorders (57%), an intellectual disability, including FASD (21%), or concurrent mental health diagnosis and intellectual disability (See Table 4.3). Substance use alone is not considered entry criteria for this court.

Table 4.3 Nature of SMHSC Involvement

Nature of charges		**SMHSC Inclusion Criteria**	
Theft	4	Severe mental illness (MI)	9
Assault	5	Intellectual disability (ID)	3
Property damage	2	Concurrent MI and ID	3
Public disturbance	3	Substance use at time of charges	4
Illegal substance use	1		

Although several participants had little to no support throughout their proceedings (29%), most described substantial support from either family members (29%) or someone in a professional role (43%). In terms of their legal representation, all but one participant in this study qualified for Legal Aid and was represented by a lawyer from an alternate low-income legal service (Table 4.4). Two participants, despite qualifying for Legal Aid were represented by private lawyers who had been hired by Legal Aid due to conflict of interest or other factors.

Table 4.4 Primary Supports and Legal Representation

Primary Supports		**Legal Representation**	
Family	4	Legal Aid	11
Professional	6	Legal Aid proxy	2
Minimal support	4	Other	1

The data disclosed by participants in interviews was not triangulated with court or medical documents, and general demographic data was not available for this study to determine how representative the sample is to the total population of SMHSC participants. However, in terms of age and gender representation, the study sample demographics are quite similar to court data from November 2013-2014, included in the *Process Evaluation of the Saskatoon Mental Health Strategy* (Barron et al., 2015). The process evaluation (Barron et al., 2015) indicated that males represented 75% of the SMHSC population, females represented 25%, and the average age was 32.

4.3 Interview Findings

Through the interviews, much was learned about the participants themselves, and elements of their lives that led them to being involved in the criminal justice system. They gave accounts of the SMHSC layout and procedures, how they perceived various roles within the court, and the types of support they received to help get through the process. They spoke about how they felt in court, and how they believe going through the SMHSC has impacted their lives.

Finally, they gave recommendations of suggestions that they felt would make the SMHSC more effective to meeting peoples' needs, and reducing unlawful activity. An overview of the interview findings is found in Table 4.5.

Table 4.5 Summary of Interview Findings

Summary of Interview Findings	
Participant Backstory	Self-description Personal history Vulnerability Medication Experiences with police and jail
Involvement with SMHSC	Events leading to charges – level of ownership Referral to SHMSC – chosen or not chosen Description of SHSC vs regular court Description of roles in SMHSC Description of the SMHSC process Support people
Experiences in the SMHSC	Degree of mental health awareness in courtroom Anxiety, fear and claustrophobia as most dominant experience Court process literacy
Participant perspectives on the SMHSC impact	Motivating factors Positive outcomes and rewards Neutral Negative No next steps
Participant recommendations for the SMHSC	Education Looking and listening Collaboration Structure and process

4.3.1 Participant Backstory

Although the focus of the interview questions was about participant experiences in the SMHSC, participants also provided a glimpse into their personalities and life experience. Without any prompting, each interviewee shared details about their personalities, personal struggles, their mental illness or disability, and encounters with the criminal justice system.

4.3.1.1 Self-description. Whether it was SMHSC participants describing their personal character, or family members and PSPs describing the people they supported, in each interview

aspects about individual personalities were shared. Michael described himself as being "*a people person, I'm sociable*", Christopher self-identifies as "*a good citizen*" who loves his city, and Jesse describes himself as "*a genuinely nice, respectful, polite person; I'm courteous to people and stuff"*. Lisa (PSP) characterizes Jane as someone who is usually "*chatty, smiley, and laughing*", and Stan (family) describes Jake as "*a very nice guy, likeable, church-going, with lots of friends*". These descriptions often came up in contrast to the interviewee describing the circumstances surrounding the charges which brought them to the SMHSC. Vicky in particular struggled with how the labels she was given in the court process conflicted with her own self-concept and stated "*you know, I made a mistake but I'm not a* ***criminal***", and "*Yeah, I may have [gone somewhere I was not supposed to go], but I did not '****endanger*** *[anyone/anything]', and wasn't '****mischievous****'; you know?"*. Ryan stated the hardest part about the whole SMHSC process was "*the fact that you have to listen to them read your file out to you*" as he felt such a discordance with it. All interviewees made some form of distinction between the nature of the individual and the behaviours that led to their charges. Although some SMHSC participants did make statements that dispersed responsibility for behaviours such as Vicky explaining "*I didn't intentionally plan to do what I did, or mean to cause any harm. It was an emotionally driven, spontaneous incident*"; and Stan (family) explaining that "*if Jake does get into a violent situation it's usually because somebody else provoked it*". Nobody made statements that portrayed they felt justified in their actions. More often they struck a balance between reflecting on how circumstances contributed to their behaviour and it was uncharacteristic of them, but they still took ownership, such as Michael sharing "*[my home life] was causing me to stress out really a lot. I'm not blaming [my foster parents] for my actions, but I'm blaming them for the stress that I was going through. You know what I mean?"*

4.3.1.2 Personal history. In addition to describing their personalities, many SMHSC participants shared details about their past and current lives. Sadly, but not surprisingly many participants had troubled pasts. Several shared details about their youth. Kirk related some of his behavioural issues to "*growing up in a child abuse home. And from there I had abuses when I was in foster care",* Billy explained that "*some of this stuff has been happening my whole life, like anxiety. I first got depressed to the point I wanted to die when I was 12*", and Randy reflected that "*I should have been going to a counsellor since I was 7 years old, and a psychiatrist*". Most had been struggling with their mental illness or disability for a long period of time. Michael shared "*I always knew there was something different about me […] and then I got all the testing done, and then I came to terms with it and accepted it*".

4.3.1.3 Vulnerability. There are many vulnerabilities that this population faced that are inherent in living with mental illness or disabilities, and being of low socioeconomic status. Christopher, Ted, and Dave spoke of their experiences of being targets for assault on the streets, and Lisa (PSP) expressed concerns that Jane was a target for sexual assault . Vicky self-identified as being vulnerable, and expressed that the manner in which the justice system responded to her behavior was disproportionate, due to her fragile state at the time of the events leading to her charges. She expanded, "*I mean, if I had committed a crime that was violent or dangerous, or had done something that was dangerous and harmful then I would understand. The justice system is there for a reason, but I was a vulnerable person. I still am"*. Stan (family) summarized a perspective that is shared by many people who support MHCs: "*These people are victims. They are ill, and they are not deserving of being thrown in to jail or left to rot away*".

4.3.1.4 Prescribed medication. All but two SMHSC participants discussed prescription medication in their interviews without any prompting. This cohort had a long and complex

relationship with prescription medications. Half of the participants recounted histories of being prescribed inappropriate medications at some point in their life, and Ryan, Christopher, and Michael all used the term "*pill-pushers*" to describe prescribers they had encountered in the past. SMHSC participant experiences ranged from Michael being prescribed stimulants in his childhood and later on discovering he did not have attention deficit hyperactivity disorder (ADHD), and Ryan being prescribed unnecessary anxiolytics in his youth that have taken many years to get the right support to wean off of, to adult experiences of Stan (family) attributing Jake's narcotic dependence to inappropriate prescribing practices following an injury. Christopher, Kirk, and Dave expressed resentment of being given medications involuntarily during hospital admissions. Many described side effects that were intolerable, including profound fatigue and mental stupor which drastically reduced quality of life and ability to work. Christopher stated that his "*Medication just screws up the system again. You can't function, you can't think, you can't do nothing. It just slows you down and prevents you from doing something good*". Both Jesse and Dave described rapid weight gain that negatively impacted their self-confidence and body image, Michael stated his medications made him feel claustrophobic, and Dave experienced erectile dysfunction, and suicidal ideation as medication side effects. Several participants described that these side effects were either overlooked or minimized by healthcare providers. Given these experiences, it is not surprising that some participants expressed a distrust of new prescriptions, or any prescriptions at all, and that several participants have elected to stop taking their prescribed medications without exploring alternatives with the prescriber at some point in time in their lives.

Despite his own previous negative history with prescription medication, Jesse recognized that for him, reinstating his medication was an essential component of stability in his life:

Something had to happen to get me back on my medicine. Because when I was off my medicine, and I was burning a lot of bridges, I was spiraling downhill. I didn't notice it. And then all of a sudden, that big event happened which got me in to trouble, and then I got back on my medicine. And now I know I need my medicine. I'm not a nice person when I'm off my medicine.

Even though many participants had negative experiences with prescription medications, many also acknowledged the value of finding the right medication. Vicky, Randy, and Christopher all discussed that in their experience, medication alone was insufficient to address their issues, and that regular counselling must also complement it. As Christopher put it, "*talking about a problem is better than drugging up a problem and plugging up a problem*".

4.3.1.5 Self-medication. Participants described their consumption of alcohol as a coping mechanism to deal with stress (Michael), post-traumatic stress disorder (Dave), or anxiety (Ryan), in one case stating that it was the only thing that was effective for them. Billy explained that he stopped smoking marijuana since being in the SMHSC and shared "*I think that may be part of why I'm getting so antsy all the time is because I'm not doing drugs. Because I started smoking pot when I was 19 and I did it non-stop up until a few months ago*".

Stan (family) who supports Jake through his persistent struggle with addictions relayed that for some people "*their anguish is such that they can no longer tolerate just to wake up, and they choose drugs*". Stan (family) was a strong advocate for harm reduction strategies, insisting that self-medication should not be judged:

I'd say it could be as much as 10 or 15, maybe 25% of the population either needs some kind of drug, some kind of street drug, some kind of alcohol or marijuana to function. And I know lots of people, and I'm sure everybody does that's willing to

be honest, that they know a guy that smokes pot all the time, that that's the only way he can go out and drywall day after day because it helps him to relax, because otherwise he'd despair at having to do this work forever. So, is that really that bad? That these people find a crutch. Would you say to somebody with diabetes, oh don't take your insulin because that's a damn crutch? Or somebody with rickets or something and you wouldn't give them Vitamin D, I mean we put the stuff in our milk. You know iodine and stuff from way back – so if you have something that works, decriminalize it, de-stigmatize it, and utilize it in an intelligent way to help those that need it to get through life.

4.3.1.6 Experiences with police. Half of the participants spoke about interactions with the police, and almost exclusively had negative things to say about them. Ryan, Vicky, and Christopher all mentioned that the police report of the events related to their charges exaggerated the severity of the incident, but that they had no recourse to address this, and that their word was not taken at equal value as the police report. Vicky, Jane, Jake and Tony had encounters with police that are described as having lingering traumatic effects due to the intensity of the events leading up to the charges and what they describe as drastically disproportionate responses by law enforcement officials, or police brutality. Dan (PSP) stated that Tony previously had a positive regard for the police and viewed them as allies, however after a misunderstanding when an inappropriate amount of force was used against him, Tony now has a very strong distrust of the police or anyone else in uniform, or in a position of authority. Only one participant recounted a positive encounter with the police. Billy recounting that in one memorable instance, police would have been justified in charging him with uttering threats during one encounter he had with them, however they opted not to, as they recognized he was in crisis at the time.

4.3.1.7 Experiences with jail. Half of the participants had experienced being incarcerated either prior to, or as a result of their charges in the SMHSC. Everyone who spoke of jail referred to it negatively and shared that being there made them unwell in various ways. Several participants described how they had to isolate themselves while in jail. Jesse shared, "*I stay in bed and try to sleep it away. You can walk in a circle and that's about it*". Lisa (PSP) described that Jane ended up spending time in solitary confinement "*23 hours a day*" due to Jane having a poor understanding of institutional rules, and as such, Lisa (PSP) and other support people were not allowed to visit her. Ted stated that being in jail increased his paranoia; Ted, Christopher and Billy described being fearful of stabbings or other forms of violence while in jail; Michael was very uncomfortable being in a closed space with so many people, and Billy noted that the "*people in jail aren't the best people to hang out with*". Christopher appeared to have particularly vivid fears of being "*enslaved into their prison system*", stating:

> *I felt that I would be used, and that the system just wanted to use and abuse me, and write me off when their time comes, not when my time comes. Take for instance that girl that did 16 years. They backlogged her in prison because she threw an egg at an ambulance one time, and they charged her with being mentally handicapped, and put her in prison for 16 years. I heard about that story, it was out. Remember that? That was bad!*

My assumption is that Christopher was referring to a recent case that was highly publicized in the news about a young woman who had recently died while in jail, despite some of the details of Christopher's account being factually incorrect. When I asked Christopher if he feared the same thing could happen to him, his response was "*Yeah well, if it can happen to one, it can happen to another*". I feel that it is possible that Christopher identified with the young

woman in particular due to a common experience of mental illness, and a sense of frequently experiencing injustice and disproportionate police responses to his own behavior.

In addition to participants recounting how jail negatively affected their mental health, two participants described how being in jail influenced their potential for future unlawful behavior. Both stated that being in jail gave them violent impulses, with Michael projecting that if he had been in jail longer "*I would come out a bad person. I totally know I would. I just couldn't be you know, not an assaultive person if I did five years and came out*". Billy said that if he had not been in the SHMSC *"I would just be sitting in the correctional still, getting more full of rage"*. Michael also expressed empathy for other SMHSC participants that he felt were "*lower functioning*" than himself, stating "*some people are scared of going to jail, especially I can see how some people with disabilities and stuff [would be scared]. I couldn't even picture some of these people going in to jail*". This demonstrates that even among participants of the SMHSC, there is a sense that incarceration is likely not the appropriate response to unlawful behavior amongst this population.

4.3.2 Involvement with Saskatoon Mental Health Strategy Court

In this section I will describe how participants of the SMHCS understood how their case was assigned to the SHMSC rather than the mainstream court, how they perceived the roles of various professional actors in the court, and the court process itself. Various support people outside of the SMHSC team are also peripherally but meaningfully involved in the SMHSC process, thus their roles will also be described.

4.3.2.1 Events leading to charges. Each participant had unique experiences which contributed to their unlawful behavior. The events will not be described in detail in order to preserve participant confidentiality, however it is noteworthy that the role that mental illness or

intellectual disability plays in most events is quite obvious. Five participants experienced visual or auditory hallucinations, or delusions that contributed to their unlawful behavior. Five participants describe that relatively minor events occurred which were misunderstood or responded to disproportionately, and this response either resulted in immediate outbursts, or ruminating over the potential soliloquy of it exacerbated their mental illness and initiated a downward spiral for them. Three participants experienced a series of terrible events in their lives that in combination with their pre-existing mental health issues lead to erratic behavior.

4.3.2.1.1 Ownership of role in events/no ownership. In seven of the fourteen interviews, statements were made that clearly demonstrated that the participant took full ownership of their unlawful behavior. Billy explained that in the SMHSC "*They expect you to plead guilty and then they start trying to get somewhere. It works for me. In regular court I'd probably just have all the charges thrown out, but, I did do it. I decided I should get what's coming to me or whatever.*"

Five of the participants acknowledged that they acted inappropriately, but felt like the extent of the charges against them were disproportionate to their actions. Vicky explained *"I don't think that what happened I should have been arrested and charged for. So, them arresting me and charging me was an invasion of my free rights"*. All professional support people expressed that due to the SMHSC participants' limitations, charging them in the criminal system doesn't seem like an appropriate response or effective way to address the challenges the participant faces. Dave also explained that although he is responsible for the actions leading to the charges he is currently facing, they were the result of self-preservation in a situation where he feared for his personal safety.

Finally there were two SMHSC participants, Christopher and Tony (as recounted by his PSP), who asserted even after the SMHSC process was completed that they were not guilty. Christopher expressed that he was consistently "*picked on"* in the community and that the police overstepped when they arrested him. He elaborated, "*The officer arrested me, and I did a month in [a longer-term psychiatric rehabilitation facility]. A month! For throwing napkins up in the air!"* Dan (PSP) stated that Tony did have his charges dropped, but continues to speak very poorly of the police and the court process, which was not something he was prone to do prior to his arrest and appearances in court. The stories of these last two participants in particular brings into question how well they actually understood that the SMHSC is a guilty plea court, and why their case proceeded in the SMHSC if they were adamant that they were innocent throughout the process.

4.3.2.2 Referral to SMHSC. The referral pathway to the SMHSC is one element that the court has been working on refining in order to limit the numbers of participants to a manageable number, and select participants who are most likely to benefit from attending SMHSC rather than the mainstream court. Of the participants that I interviewed, all but three were referred to the SMHSC by either a lawyer or a judge. In all of the cases referred to the SMHSC by a lawyer or judge, it was quite apparent that the SMHSC participant lived with mental illness or an intellectual disability. Ten participants were either visibly unstable, demonstrating erratic or paranoid behavior as a marker of mental illness at the time of their court appearance, or live with a disability that impacts their ability to verbally communicate effectively. Of these ten participants, three were so ill at the time of arrest, they were admitted directly to a psychiatric treatment center. The remaining participant who may have presented with no deficits or behaviors had a previous criminal file with their mental health history clearly indicated.

Three participants described that they sought out the SMHSC themselves, or someone other than their lawyer advocated on their behalf to be included in the SMHSC. Of these three people, it is worth mentioning that these participants appeared very 'normal' during brief interactions, so it is not surprising that no one on the legal team recognized that they were in fact ideal candidates for the SMHSC. Two of these participants were among those who spoke most highly of how the SMHSC helped them to address the problems they were facing in life, and are currently quite successful in terms of living independently and a self-described quality of life. Michael especially recognized the potential for the SMHSC to help people whose challenges were not so obvious, reflecting "*After the court was done, I remember just feeling like, man, a lot of other people should be in here. There's a lot of people that look okay but they do have a lot of issues like me."*

4.3.2.2.1 Chose SMHSC. When asked about how they chose the SMHSC, five of the participants responded in ways that indicated they clearly chose and consented to this specialty court because they recognized its potential to help them. Ryan explained "*I chose to do [the SMHSC] because I was dealing with mental health issues […] because I was really looking for other people to help me. Not saying that I can't help myself, but I need people to help me as well as to figure out what the best options are."* Three of the participants who clearly chose the SMHSC were self-referrals, and two recounted discussing the SMHSC with their lawyers. Interestingly, the two participants who clearly stated or recalled that their lawyer proposed SMHSC both had private lawyers, not Legal Aid lawyers like the majority of the other participants. In two cases it was unclear from the interview whether the participant chose the SMHSC or not. Vern "thinks" he remembered being offered a choice, but is not certain because he self-described that he was very ill at the time.

Karen (family) shared:

I didn't know that there was a mental health court, just by Lucy talking about it. It was a different court at first and then the lawyer briefly said that she had been recommended Lucy for this [SMHSC] court, and based on her wording, that this was going to, would be a better experience for Lucy within the court system and that it would help her, rather than the regular court system […] She didn't [explain how it would be a better experience], she just said that it would be better for her to go through this system […] But even if she was given the choice, would she understand exactly what it was about? Because when she's been in the system, and whether it's the judge or the lawyer that talks to her right in court, and if the judge says 'Do you understand', whether she understands or not, she'll just agree.

4.3.2.2.2 Did not choose SMHSC. The remaining seven participants did not explicitly recall being offered the choice of proceeding in the SMHSC rather than conventional court. Several participants stated that they were not aware that the SMHSC existed until after they were already in the courtroom; Christopher said he was *"thrown in"*, and Ted said her was *"put through"*, both portraying they were passive recipients of this decision. Randy stated that the judge referred them to the SMHSC "*right away",* but when asked if he knew why, Randy stated "*Not really. I just took it as I was homeless and by their interview they could tell, the police could tell I was not in a good state of mind. No, nobody ever really told me why."* Billy stated "*It was kind of sprung on me. I don't know. Actually I walked out on my lawyer when she told me, but I showed up for court anyways."*

The importance of explicitly choosing the SMHSC is that it is a guilty-plea court, which has significant implications on how the case is managed. For five participants that did not recall choosing the SMHSC, but by their own description, being in the SMHSC proved to be beneficial to them. However, despite this, when asked if they knew it was a guilty plea court, Billy stated "*No, I didn't know that until my third or fourth time [in attendance]"*. Vicky and Christopher had lingering resentment of being in the SMHSC, due to this structural component of it being a guilty-plea court stating respectively, "*Just because you admit to having a mental illness doesn't mean that you should be pleading guilty, or forced to plead guilty"*, and "*I thought everyone was innocent until proven guilty"*. These statements may demonstrate poor understanding of the intent and process of the SMHSC, but regardless of their potential misconceptions, it is clear these participants have an enduring spiteful regard of their experience that may not have been so strong if they felt they had chosen this path themselves.

4.3.2.3 Description of SMHSC vs. regular court. All of the participants who had previous court experience commented that once in the courtroom itself, the structure and function of the SMHSC is very similar to conventional court, with the most common differences being how they were treated while there and that the process took longer. Conventional court was described as an "*unwelcoming*", "*serious*", and "*solemn*" place, where the "*prosecutor is mean and out to get you"* and the judge is "*disrespectful*", and "*stricter and more willing to put you in jail*", where even if you work hard and "*try to jump through hoops, you're still going to get punished the same"*. Billy described "*you don't get treated like a person in regular court"*, and Michael explained that *"in regular court they try to say 'ok, this is what you did, this is the sentence, and this is what we want to give you', and basically they just try to do that and get it over with"*. Dave, who had previous experiences in conventional court said *"Other lawyers, they*

just agree. They don't really listen to you, like, listen to your story. They just agree with the prosecutor and then just, oh yeah, we're going to give you time". The overall impression that I got from participants is that they felt expediency was a priority, and that they were passive recipients of predetermined sentences with very little voice or agency in the process.

Michael, who had numerous previous experiences in conventional court for similar charges as those he was facing in the SMHSC stated that the differences in the SMHSC were *"hard to explain but easier to see and feel*". The tone of the court left lasting impressions on many participants. Dan (PSP) described the key difference as "*Well really, just friendlier people is really all I mean. Because you're going to the same courtroom, the same process […] Like everything was very similar, it's just, the judge seemed to be more understanding, and the same with the crown and that sort of thing […] "But the experience in [SMHSC] was much better than regular court. Everyone was kind of a little bit more understanding of our gentleman."* Billy shared "*They make you feel welcome there […] Because everyone is smiling and they treat you like a person. You don't get treated like a person in regular court. They're trying to make me feel like I'm worth it […] Everyone says hi to me, 'Oh hi, good morning!' and I'm not used to people saying good morning anymore. It felt nice for once."* Michael noted *"They actually joked around and stuff in that court. They actually had humour, a sense of humour. I remember that too. Like even the judge was making jokes and stuff."* Stan (family) remarked *"I think they're a little bit slower and more compassionate.*"

Several participants explained that SMHSC differed from conventional court by being less formulaic, and more focused on problem solving, which aligns with the intent of the court. Ryan explained "*In regular court they almost just try to say 'ok, this is what you did, this is the sentence, and this is what we want to give you', and they basically just try and do that and get it*

over with. At mental health strategy […] they do tell you what the charges are, but then they also give you the options 'this is what could happen, this is what could happen, or this could happen', so you had options". Jesse shared a similar sentiment, "*They're not just out to sentence you, you know? They want to work with you. They're like, 'Ok well, get programming*.'" Billy also described an intent for the SMHSC to support progress: *"They expect you to plead guilty and then they start trying to get somewhere."*

Several SMHSC participants also made comments specifically related to how the SMHSC acknowledged their mental illness or disability. Jesse remarked "*I think that they're more lenient, you know? They understand the mental issues that people are dealing with, so they, if you know you have a history of it, they're more likely to give you a second chance, you know, without throwing the book at you right away."* He valued that in the SMHSC no one attempted to minimize how real and distressing the hallucinations he was experiencing at the time of his unlawful behaviour were to him, "*Nobody said, no you didn't hear that, you know? They accepted the fact that I heard that and that's why I acted the way I did."* Kirk noted that the court conveyed a sense of "*We're trying to help you, we're trying to fit what's best for you, psychiatry and stuff like that. The regular court never does that."*

Other ways that participants differentiated SMHSC from conventional court was by the length of the process, which many participants commented on. Several participants defined the SMHSC by their impressions that it is *"easier"* or "*more lenient"*. Not all participants felt this was the case. Due to the additional requirements to seek assistance in various forms, usually articulated through conditions of their parole, Michael described that it "*felt like jumping through hoops"* and that "*they still want to punish people"*. Karen (family) echoed this sentiment with frustration, stating:

Really I didn't see no difference. In fact, Lucy thinks that the regular court was more, was easier on her than this one […] because of all the conditions they've given her. If anyone knows about FASD or brain damage or whatever, they can focus on one thing. Not a multitude of things coming at them […] So she went to regular court at one time and […] I repeatedly explained to the lawyer that it can only be – like you can give her one thing to follow, and in the regular court system, we managed to do that […] But this one has so many conditions."

To summarize, most participants or support persons did not recount substantial differences in the structure of the two courts, but did note that the process was slower, with more opportunities to explore alternatives to a quick, prescribed sentence. What stood out most was a difference in the tone of the court, with the majority of participants commenting on how they felt they were in the SMHSC to work towards a goal, and that the role their mental health or disability played in their unlawful behaviour was taken into consideration. When discussing how they were treated, it was usually in relation to a particular person in court, which will be explored more in connection with the perceived roles of each of the SHMSC team members.

4.3.2.4 Description of roles in SMHSC. Participants were not asked about any specific SMHSC team members, rather participants discussed who was most memorable to them. Note that participant comments may refer to various individuals who occupied the role of judge, defence counsel, or prosecution. Of interest, it was noted that participants held on to comments that the prosecuting lawyer made to them as much as those of the judge. In general, participants described the SMHSC roles in a way that is quite consistent with conventional court roles, with the judge being an authority figure, the defence lawyer representing the participants' interests, and prosecuting lawyer being in opposition. Many MHCs attempt to minimize the impression of

the MHC process being adversarial, however from the descriptions of these participants it appears as though they still perceive the defence counsel as being 'with' them, and the prosecution being 'against' them. When the legal actors in the court did not fit the expected roles, participants took particular notice. There were very few comments made about other interdisciplinary team members.

4.3.2.4.1 Judge. The judge was described by participants as being a "*nice*" or "*kind*" person who "*smiled"* or "*joked around"* by participants. Support persons in particular noticed that judges in the SMHSC spoke about the purpose of the court, with Dan (PSP) stating he recalled the judge saying "*this is your support team"*, and Lisa (PSP) noting that additional efforts were made to ensure comprehension: *"I feel like there's been more conversations, like 'Do you understand? Do you understand what I'm saying?' in the mental health court versus the regular court. I feel like the judge has taken more time to make sure that everyone knows what's going on*". Although the authoritative role of the judge was recognized, their more moderate and less authoritarian stance was appreciated by several interviewees. Kyle, who was not new to being in court, expressed that if he had a nice judge "*I'll follow through all the plans"* but "*If the judge was strict, I'd take it to the next level. And it could be blacking out on the judge or I would be doing a lot of bad things, to make things worse"*.

Participants appreciated any direct interactions that they had with the judge. When asked about what the best part of the SMHSC experience was, Billy excitedly stated it was these interactions, because it made him feel like a person, elaborating "*That's what the judge does, he asks you how you're doing and tells you he's glad you came to court. Or thanks you for coming to court. You don't get that in regular court"*. Randy explained that the judge asked him directly if he had attended appointments, then acknowledged that Randy had done everything that was

asked of him, and commented on his improvement. Michael noted the opposite occurrence, where the judge asked the lawyers about his progress rather than addressing him directly. Dan (PSP), Lisa (PSP) and Karen (family) noted that if a SMHCS participant had a professional support person with them, the judge tended to speak to the support person more than the participant themselves. Both being acknowledged and being overlooked left a lasting impression.

4.3.2.4.2 Prosecutor. Many of the comments about the prosecutor were negative, which may be due to the role the prosecutor has in an adversarial process. Some comments portrayed the prosecutor as being a threatening opponent with the power to demand harsh sentences, who "*just wants to move it along*", has to "*make a quota*" and "*wants to punish you*". However, when any positive comments came from the prosecutor, it was all the more meaningful, perhaps because the participants felt like they had won over someone who in their understanding should be their foe. Two participants told their experience in a way that made it seem like proving themselves to the prosecutor was more import than the judge. Ryan explained it this way:

> *When you're in it for that long, they (the prosecutors) start to get to know you a little bit because they continue to see you all the time, and then they realize what situations you're in, and they see you – they see you change, not change, or get worse. And so they do notice it. And he did say to me, he met with me and he said to me 'I have noticed a change'. And he said most of the stuff you've done, you've done on your own, and he says this is why we're going to go along with this outcome, because of the progress you have made. [It felt] Very good. Very good, because you know I had to do it on my own. And I looked for all those ways to do it and he said he saw that, and every time I came to court he said I was looking better each time. And so that was good.*

Randy described "*Things were going really well. And even the prosecutor said that. Even when I did officially have my trial, she said 'Randy has done really well, probably the best one in the court.' You know, and that's coming from the prosecutor, so…"*

Both of these participants also commented that this positive reinforcement from the prosecutor was meaningful, specifically because it was rare. They had not observed it between the prosecutor and other participants.

4.3.2.4.3 Defence. Most participants in this study described the defence lawyer's role as being primarily procedural. They described having many meetings with the defence lawyer to review their file, provide legal advice, or give insight into what the most likely outcomes may be. The SMHSC does not have a case manager on staff, so some participants and support persons in this study had an expectation that when the defence lawyer suggested that they partake in treatment that the lawyer would also assist participants with connecting to mental health services, and were disappointed that this was not the case. Four participants had distinctly positive relationships with their defence lawyers. Jesse felt that his lawyer "*definitely looked out for my best interest"* and Dave, who initially was wary of his lawyer stated that she "*took time to get to know me*", and "*got my trust*". Randy even identified his Legal Aid lawyer as the person he got the most support from throughout the entire process.

There were many critical comments about the defence counsel as well, which were directed uniquely to lawyers who practiced with Legal Aid. Upon closer examination, it appears that this criticism could likely be attributed to their workload rather that the calibre of the individual practice.

4.3.2.4.3.1 Defence workload. In total nine of the eleven participants with Legal Aid representation described elements of their experience that suggested their Legal Aid lawyer was not able to manage their case to their full satisfaction. Participants mentioned that their lawyer was often unfamiliar with their case in meetings, or appeared disorganized in the courtroom. Several expressed that they had an unsatisfying amount of time with their lawyer, or that their lawyer was very difficult to contact. Eight participants made comments specifically about their Legal Aid lawyer having "*a large case load",* or "*too much on the go*", being "*overloaded*", "*swamped*", "*overburdened*", "*rushed*", "*frantic*", "*chaotic*", or "*kind of in shambles because they might have however many people there*." SMHSC participants identified that feeling their lawyer did not have time to manage their case well increased their own anxiety, and had a negative impact on how well they felt they were represented in the court process. Ryan explained "*You feel like you've made good progress [with your lawyer], you leave, and the next time you see them you start all over again. So, but I mean, I'm not blaming them for it, it's just that maybe they're a little overloaded with clients. And they have to deal with a lot of, I've seen many, many, many file folders on their desk."* Karen (family), although she expressed frustration, also empathized with the lawyer "*When you're your own lawyer you can space what you're doing and take the clients and whatnot. Not the legal aid […] And you're going to miss something. And I'm sure some of them are good workers and whatnot, but they're flying, and so they're not doing a service to their clients. And some of them it's not their fault."*

4.3.2.4.3 Nurse/parole officer/FASD Network representative. The SMHSC team also consists of a representative from the FASD Network, a community mental health nurse, and a parole officer, however their roles were mentioned very seldom in interviews. Karen (family) explained that because the pre-court meeting is private, those attending court ponder what the

roles of these other members actually are, as all the dialogue in open court takes place between the legal team. She elaborated, indicating distrust due to the ambiguity of the process and power dynamics she observed "*You know they [the interdisciplinary team] sit there [in the gallery] and the court happens, right? So I don't know what they discuss [in the pre-court meeting]or what they come out with, because once that's done, we come to court, we have no dialogue with them. It's just the crown, the judge, and it looks like they've decided already. So we don't know what they talked about, or what did they say, or if they did say something are they listened to? Because you know, when you have a group, if you're very strong you can almost take over a whole dynamic, right?*"

Two participants stated that the nurse provided occasional moral support and information about the medications that they were taking. There was only one example of any of these positions taking on a larger role in the court proceedings, and this was an FASD Network representative who provided extensive advocacy on behalf of Michael, and extensive teaching to the legal team on FASD and how it influences behaviour.

4.3.2.4.3.1 Research observations/triangulation. My observations of the SMHSC and the court team roles are consistent with the perspectives that participants shared on essentially all accounts. The conventional court did move along more quickly than the SMHSC did, and participants in that court were rarely addressed directly. There was more of a disapproving tone in the conventional court, with the occasional reprimand from the judge, which I did not ever observe in the SMHSC. The judges in the SMHSC were consistently respectful towards the participants, and often smiled and were warm during their brief interactions with them. Both of the lawyers' mannerisms in both courts were quite detached, with each case being treated as a business transaction. In the SMHSC this was more so the case with the prosecuting lawyer. Due

to the setup of the court, both the defence lawyer and the prosecuting lawyer have their backs to the participant, so if there is any dialogue with the participant it usually comes from the judge. The defence lawyer may quickly turn around to give the participant a card indicating the date of their next appointment, or to quickly inform the participant that they need to stay so that they can meet at the break. Any direct communication between the prosecuting lawyer and the participant is rare. The defence lawyer working for Legal Aid does represent the vast majority of participants in the SMHSC; on some dockets they represent all clients, and do have to move quickly to meet with many of them on court breaks.

The community mental health nurse (CMHN), parole officer, and FASD Network representative do not have very prominent roles during open court. The CMHN will take initiative to speak with participants who appear to be particularly unwell, or will speak if the judge asks them a question relating to mental health services. Over the period of time that I observed the proceedings, the defence lawyer would ask the CMHN more frequently to join them in meetings with their clients, however this started to occur after the timeframe that any of the study participants were involved in the court. The parole officer would often take notes on each case, so it is likely that attending court mostly allowed them to stay up to date with participant conditions and status. The parole office would occasionally fill in information that the defence lawyer did not have about a participant's attendance at appointments if the participant was not present themselves. The FASD Network representative occasionally arrived with a participant, and was available to offer transportation or other logistical support to participants with FASD or who were suspected to have FASD, however this occurred infrequently. Very few of the SMHSC participants' reason for inclusion in the court is FASD; the vast majority of participants are included due to mental health diagnoses, so this reduces the

potential role of the FASD Network representative. In addition, from my understanding, the FASD Network has an approach of allowing individuals to initiate contact with them rather than doing so themselves due to the stigma surrounding FASD, so this may explain in part what appears to be quite a passive role in the court.

4.3.2.5 Participant description of SMHSC process. Participant descriptions of the SMHSC process centered on the promises they agreed to, or conditions of probation (henceforth referred to as 'conditions') they were subject to. Participants shared that attending appointments with various medical professionals for assessments, treatment or counselling were commonly included in both promises made and conditions imposed, such that there was very little difference between the content of promises and conditions described in the interviews. Participants also described the purpose of their personal attendance in court, and their impressions of the rationales for multiple adjournments and the often extended length of time they spent in the court process. Finally, they discussed their legal outcomes.

4.3.2.5.1 Promises and conditions. Many MHCs have participants sign a document with several promises on it as a tool to have court participants make a commitment to reaching goals that are ideally made in collaboration with the court. The promises are not legally binding, as often they include taking medications, attending treatment, or having assessments done, which cannot be legally mandated except in special circumstances. Conditions, however are legally binding. If the court finds that a person has breached their conditions, the person may accrue additional criminal charges, and may be apprehended into custody.

Just over half of the participants included in this study clearly stated that they did *not* make promises with the court; four participants clearly stated that they did make promises

instead of, or in addition to conditions of their probation. The remaining two participants were unable to recall or differentiate if they made promises or conditions (See Table 4.6).

Table 4.6 Nature of Promises and Conditions

Nature of direction given	**Number of participants describing direction as a condition of probation**	**Number of participants describing direction as a promise made to court**
See a psychiatrist	7	3
Attend counselling	3	-
Take prescribed medications	2	1
Keep the peace	2	1
Do not attend specified location	2	-
Do not interact with specified person	1	-
Do not consume substance	2	-
See community mental health nurse	1	1
Attend court	1	-
Attend Alcoholics Anonymous	1	1
Find an appropriate substance rehabilitation facility	1	-
Connect with the FASD network	1	-
Meet with parole officer	-	1

When SMHSC participants stated that they did make promises, they were asked if they had any input into developing these promises or goals. All interviewees, including PSPs and family members responded that they did not have any input or influence in the development of promises or goal setting with the court. The SMHSC participants themselves did not express frustration with the lack of involvement in developing the promises or plan, but support persons often did. Randy stated "*I never even challenged them on it. I just complied with it. I knew I needed a lot of help, and I had a complete breakdown, and I had an opportunity and I ran with it."* Whereas Lisa (PSP) shared that there was a lot of "*frustration of not being able to [help], like we feel very helpless because we can't do anything. And not that we have the answers to everything but I feel like if there was more communication maybe we could have a better plan*."

Similar frustrations were shared by Karen (family), who expressed "*We're not part of the system and I knew right away, and that we're not given an input*."

Stan (family) expressed that he was used as an instrument to implement the plan, without having any influence over the development of it: "*Well because he's an adult, I'm not really able to talk to the prosecutor, I'm not able to talk to the judge about him, I'm not able to talk to his lawyer other than his lawyer comes to me and says 'well, look, if you allow him to do this, this, and this, he promises to do that."*

The overall impression conveyed was that family members and PSPs care a great deal about the people they were supporting through the SMHSC process, and put great amounts of energy in to their well-being. Yet, their personal knowledge of the SMHSC participants abilities and limitations was completely disregarded, despite being given messaging that the SMHSC was a collaborative and supportive environment. Rather, the support persons felt responsible for ensuring a long list of SMHSC conditions or promises, which they had no influence over, were met – and if the conditions weren't met, the person they cared about would likely suffer.

Attending appointments for various assessments and evaluations were commonly relayed as a direction in the form of a condition or promise that was given by the court. In some cases participants saw these as beneficial; in others they did not. Five participants clearly stated that the assessments and subsequent treatment they got through the SMHSC process were key factors in their recovery and current improved stability. Three participants stated the court didn't order or facilitate anything that they weren't already doing or attempting to do on their own, but the SMHSC process took more time than the conventional court, which allowed them an opportunity to stabilize before sentencing. Lisa (PSP) and Karen (family) described that the court ordered assessments did not contribute any new information to what was already known about the

participant, and that these assessments likely would have been unnecessary if the court had simply spoken with them first. Three SMHSC participants stated that they were sent involuntarily by the SMHSC to a residential psychiatric facility for an assessment; two of the three remain resentful of this.

4.3.2.5.2 Fairness of promises and conditions. Most SMHSC participants stated that whether it was in the form of promises or conditions, the expectations of the court were quite basic and fair. In many instances the promises reinforced actions that the participants were already taking. Ryan explained, "*for me the promises were to continue to meet with my addictions counsellor, continue to keep appointments with my psychiatrist, continue to attend group meetings*", Vicky also stated "*I was already doing it*", and Billy shared, "*It was all basic, like what's expected of you anyways*". Despite deeming the court directions as generally fair, many study participants identified various barriers to complying with them.

4.3.2.5.3 Barriers to complying with court directions. The barriers to complying with court directions relate very closely to the types of challenges participants face in their everyday lives that likely contributed to their poor state of health or wellness prior to being involved in unlawful behaviour. Without addressing these barriers, SMHSC participants are less likely to succeed. The primary barriers that were discussed in interviews include personal challenges such as poor memory, low executive functioning, the power of addiction, difficulties accessing services, and a lack of appropriate services in the community. Several participants explained that failing to follow through despite their best efforts is part of what hampers their motivation to keep trying.

4.3.2.5.3.1 Personal challenges. Six participants plainly stated that brain damage or disorganized thought patterns frequently interfere with their ability to remember appointments

and court dates, sometimes within minutes of them being booked. All but one of these participants rely almost exclusively on their support networks to remind them of these dates, and often to provide transportation to them as well. Brain injury also contributes to the ability of some participants to make a plan and follow through with it. Stan (family) explained that Jake *"was missing times he was supposed to go there [to court] because his perception of time and location and stuff like that is not the way a normal person's is"*. For some participants, the number of obligations imposed on them by the court can greatly exceed the number of duties they are already struggling to meet in their everyday lives, and this can be overwhelming. Karen (family) explained "*This court has so many conditions. These are my words, but it just floored Lucy because there's so many conditions"*. Kirk lamented, "*It's hard to keep commitments because I have so many other commitments I have to worry about. And it's hard to follow through with*", and Stan (family) expressed his opinion that "*You don't need a whole bunch of 'you've got to do this, you've got to do that.' These people can't do what they've got to do now*." In addition to personal barriers, there are structural barriers to accessing services.

4.3.2.5.3.2 Difficulty accessing services. The first barrier that participants faced in accessing services was simply finding them. Ryan described that his primary reason for choosing the SHMSC was because he hoped the court could help him find the help he needed, and he was disappointed to learn that the SMHSC team did not have any additional information. He sullenly explained, "*I sat in the mental health strategy because I was really looking for other people to help me. Not saying I can't help myself, but I need people to help me as well to figure out what the best options are. But it kind of turned out that I basically had to keep looking myself and find the options myself and get those answers."* Stan (family) suggested that "*segmented care*" is the biggest challenge facing access to services today. Participants described

several difficulties with psychiatrists ranging from simply finding one that is accepting new patients, long wait times, experiences of high turnover of doctors, and several complaints about finding a psychiatrist that isn't a "*pill pusher*". Six participants described being turned away from service providers when they felt they needed help, for reasons of not meeting their admission criteria or there not being enough beds, or because they have been "banned" from certain locations due to past interactions there. Finally, several participants described living with conditions that they felt there were no available treatment options for, such as concurrent detoxing from alcohol while also tapering off anxiolytics, group therapies tailored to people with intellectual disabilities, or very long term residential substance use rehabilitation programs. Similarly, Vicky stated that the frequency and intensity of services available did not meet her needs: "*I don't really feel like there's the best of services available for people struggling with mental health, you know. Counselling once a month or whatever isn't really enough. Appointment with a psychiatrist once a month, prescribing you medication isn't really enough. You know, I even went to a group home, and I mean sure there was someone around, but it, it just didn't help address the underlying issues that I'm struggling with. I've had to tease them out myself, and do my own healing in my own time I guess."*

These experiences of continually trying to access services without feeling supported contributed to participants losing motivation and self-esteem, or feeling desperate. Michael stated that before he got the proper diagnosis, he kept trying to make good decisions and couldn't figure out why he was incapable of following through "*It's just like what the hell! Like I didn't know if I had a split personality or something for a while there – it was really weird*". Karen (family) stated that when Lucy was given conditions beyond her capacity to follow "*it was more than overwhelming. Lucy just – it's almost like she wanted to give up […] I don't know how to*

explain it but, it's almost like 'oh well'. Because she knows that she's going to break that". At one point, Ryan was so frustrated with the process and the inability of the court to help him, that he was ready to take extreme measures: "*So then I said to [my lawyer], ok well I do have another option. I said I can go out, and I'm going to commit a small infraction that goes against my probation so that they put me in jail because there they will [provide the required treatment]. There I get monitored, and you get food, a place to sleep, and a place to stay."*

This collection of accounts highlights the importance of the availability and accessibility of services available in the community, as well as a recognition that despite one's best efforts they may not succeed at meeting court requirements. In order to usher court participants towards stability, the SMHSC must achieve the right balance of giving direction, realistic expectations, enough support and facilitation in accessing services.

4.3.2.5.4 Purpose of court appearances and adjournments. The time periods spent in the SMHSC described by study participants ranged from two months before charges were dropped, to over four years with no resolution as the participant continued to re-offend, with most participants stating that they spend twelve to eighteen months attending the SMHSC after any time spent in psychiatric care. This time period is generally longer and has more appearances that conventional court, which was apparent to most participants. What was not as apparent was the purpose for the longer process, and larger number of appearances. Ryan summarized his experience as "*every month or two, basically you just go there, the lawyer would talk to you for a few minutes, say 'Oh this is what's going on' and basically nothing changed […]. And it takes many court appearances before anything actually happened, before anything was actually dealt with, and it took a good year before things even started to actually start to become dealt with."*

Participants expressed frustration with the fact that appearing in SMHSC required committing at least half a day from them, but once they were there they had very little interaction with the court team or personal purpose in being present. Ryan described a typical appearance as "*You'd stand in front of the judge, the lawyer would say 'Yes, he's still here, we're working on a solution, we're working on this, he is here' and that's it"*. Ryan, Billy and Lisa (PSP) described the time in court as a heavy time burden in exchange for little progress and minimal engagement and Christopher felt it was "*a waste of government money*". The rationale for their personal attendance was unclear to many participants including Randy, despite being one of the SMHSC participants who understood the process best and was most satisfied with the outcomes. He describes a typical day as *"[The judge] calls me up, I go stand there like an idiot, talk about my stuff. It was just really nerve wracking, hard on me. It wasn't combined with anything they wanted you to do. It was just going up and standing there. Like I was begging them to go last every time. Then I'd sit there for hours just watching people just go, go, go, go, go, go, go."*

Family and PSPs who attended SMHSC with participants expressed similar frustrations in relation to the disappointment with going to court and leaving with the impression that they went simply to hear that it was adjourned. Karen(family) conveyed that she felt that the process was very disrespectful and took for granted the value of her own time and efforts. "*We went to court that one day. We were never told that the court was going to be adjourned, and it's not easy for me because I have all these people [that I care for] but sometimes I have other things to do […] I go get her and come to court, and then they just adjourn it! No consideration whatsoever! There was no consideration, I'll tell you that, nothing! […] Someone could have said, you know, we're going to adjourn and that would have been good. But no. It's like we don't count*." Lisa (PSP) described a lack of any clear direction or purpose to showing up in court "*It*

just seems to be a lot of nothing getting accomplished and then consistently getting pushed back […] like there's never a plan. We show up. That's the plan."

Family and PSPs also described how this influenced the behaviour of the people they were supporting. Dan (PSP) said *"It was confusing for Tony. 'Now I'm only going to see the judge to talk about these two things and nothing's occurring' […] it's very confusing because it's like 'I'm in trouble and something [bad] is happening and I'm coming to court and feeling like complete garbage', like you've got to be nervous about it and then – 'Oh, okay, you're coming back in a month or two weeks' or whatever it is."* Dan (PSP) felt that the repeated cycle of Tony anticipating that something bad was going to happen, followed by an uneventful appearance where no additional information was provided, but a threat of being punished caused Tony's health to deteriorate "*because there was the lingering charges and where are we going to go and that, so, that was the worst two months of his life actually, probably. I've known him for ten years and that was the longest two months just because we were going through the process of [the court]."* Dan (PSP) also described that Tony would have more outbursts in the days immediately prior to and following court dates, which potentially put people around him at risk. Stan (family) also stated that the process exacerbated Jake's condition "*They have him go, and they postpone, they have him go, and they postpone. And it drove him crazy. Imagine having obsessive compulsive [disorder], and all he does is think about it. I see him standing in the backyard, staring there, and I come up, and hear him, and he's talking this through in his mind like he's trying to wrestle to correct it, you know?"*

This is not to say that the court appearances do not serve a distinct purpose for the SMHSC team. However, from interviews with the participants and support persons it is evident

that the purpose of a longer process, many adjournments and many appearances is not clear to them. For some participants it did not appear to have a pronounced impact, however for others it appears to have been quite detrimental.

4.3.2.5.5 Legal outcome/ sentence. At the time of the interviews, eight participants had received their sentences, one had charges dropped, and five were still involved in the court process. One participant felt that their sentence was unfair; the remainder of participants were generally satisfied or very happy with their sentences, with a distinct exception of being required to pay fines.

Vicky, who expressed the most dissatisfaction with her sentence, previously expressed in the interview that she felt she never should have been charged in the first place. Vicky considered having a sentence was a big barrier to future employment and her general well-being: *"I already have obstacles in my future and this is just another big one now"*.

Two participants felt that because the court process had been so long, some of that time spent on probation should have counted towards their probation period after sentencing, with Ryan stating "*I'm just starting my conditional sentence order, and now after that I still have probation. So now court time, however long as that may take, for me it was a year and a half, so the year and a half is now over, now I go into my sentence […] it's delaying everything, and I just want to move on."*

The majority of participants felt that the sentence was fair. Ryan and Randy both assumed that if not for the SMHSC they would have been sent to jail, and Michael and Jesse, despite serving jail time as part of their SMHSC sentencing, felt it would have been longer if they had gone through conventional court. They expressed respectively "*they actually do take your disability into consideration"* and "*they understood that in my head at least I heard what I*

heard you know? They took that into consideration I guess and were like, well if I heard that you know I'd probably lose it too". Billy, who was still involved in the SMHSC process and recognized the strides that he had made, anticipated that his sentence would be the most rewarding part of his experience, stating "*I'll probably just get a suspended sentence, so I won't have to worry about being locked up.*"

4.3.2.5.5.1 Fines. The component of sentencing which several participants most adamantly expressed dissatisfaction and a sense of injustice with was the allocation of fines to participants when they had no clear means to pay them. Ted expressed that if a person spends time in jail as a punishment, they should not have to pay fines after they get out; jail time should be payment for their offence enough. Three participants recognized that due to living on social assistance, repaying fines would be next to impossible. Stan (family) pointed out that often it is parents that "*cough up money for fines*", and continued to elaborate: "*The fine thing is the worst thing to me. When I went to the mental health strategies court and I sat in there and they're dealing with someone that's obviously got big issues and then they say 'ok, here's a fine' – total waste of time! Most of these people are going to have to steal the money or do something. The court system is creating criminals in my opinion. And I mean, that's a strong statement to say, but if they say well if you pay this $300 by this date and they have no way of getting a job – nobody is going to hire them because they're that dysfunctional, so what is left for them but to go sell some drugs, sell themselves, steal something.*"

4.3.2.5.6 Adversarial process. Some MHCs choose to be structured in a way that the traditional adversarial court process is muted, so that the defence attorney and prosecuting attorney appear to be working towards solutions rather in opposition with each other. In the SMHSC, the adversarial process may be toned down, but still came through clearly in the

participant narratives. Vicky highlighted the perceived conflict, hierarchy, and 'othering' she felt, describing, "*It was like 'you the accused', the criminal, and 'we the authority', and that was the essence of the entire proceedings"*. A third of the participants felt that the prosecutor threatened inflated sentences, only in order to force or threaten them in to agreeing to a joint submission, such as Vicky stating "*Either I agreed to it, or if I disagreed to it and it would get taken to the judge then he [the prosecutor] would be pushing for a jail sentence instead*," Jesse concurred, "*You agree to that, and that's how it is, you know? If you disagree it could be much worse for you."* Christopher also articulated a complete lack of control or influence in the outcome, "*You have no choice but to obey […] I just pleaded guilty and let the hammer fall*"

Without a background in law, these types of statements made me as an outside observer question the value of the adversarial process in this type of setting. It also raises questions about the degree of coercion that participants feel. Actions that were involuntary or performed with great hesitation were described in several other instances as well.

4.3.2.5.7 Involuntary actions and perceived coercion. Participants described forms of coercion from the time they were referred without agreeing to the SMHSC, to their decision process when deciding to accept a proposed sentence for fear of being punished harshly if they rejected it. In some instances the authority of the court was helpful in motivating participants to attend appointments, however in other instances there were no perceptible potential benefits. Two participants discussed a great distaste for being required to reside at a shelter for a duration of their time in the SMHSC because they felt unsafe there due to being surrounded by high rates of drug use. Four participants clearly articulated that they didn't agree with the statement of facts presented but surrendered to agreeing to them and gave up on clarifying their own position, simply to move the process along. Two participants described that they felt like passive

participants in the process, agreeing to assessments that they already had done simply because the court ordered them.

The most concerning example of a participant feeling forced into undesirable actions by the court process was Dave, who disclosed in the interview "*They never made me sign a promise, they just told me that [I have to keep taking my medications]. But if I keep taking the medications I'm pretty sure I'll commit suicide".* After the interview, a substantial amount of time was spent with Dave, clarifying to him that the condition of probation to "take medications as prescribed" did not mean that the prescription itself could not be changed. This conversation highlighted the importance of the SMHSC explaining the conditions that they give to a SMHSC participant very clearly, and the potentially fatal consequences of not ensuring full understanding. Ideally this could be done with both the participant's lawyer and the SMHSC mental health nurse present.

4.3.2.5.8 Nature of SMHSC connection to mental health services. One of the goals of the SMHSC is to connect participants with resources from which they may benefit. For some participants this was the case, however more often participants described that they were given direction to access services, but those connections were not facilitated, or they were required to maintain existing connections that were established during their hospitalization directly following arrest, or reconnect with services they had previously accessed.

4.3.2.5.8.1 Connections made through SMHSC. Few participants identified that connections were made directly through the SMHSC. Only one participant had never sought or received mental health services in the past, and their experience was overwhelmingly positive. This participant was connected with a representative from Housing First who is not regularly in court, but attended court that day. The participant was quickly connected with safe, stable

housing following this encounter. Following court direction, the participant independently made appointments with a psychiatrist who also referred them to counselling.

The most common direct connections made through the SMHSC were to see particular psychiatrists or psychologists who specialized in specific assessments, such as forensic psychiatry or FASD assessments. In these cases, due to high demand for these practitioners, appointments to see these specialists are booked directly through the SMHSC. Several participants stated that they also met the mental health nurse, or the FASD Network representative in the court, but did not establish therapeutic relationships with them.

4.3.2.5.8.2 Actualizing connections. Most commonly, connections to services were required in promises or conditions but not facilitated by the court. Every participant spoke of at least one connection that they made independently. When asked if the SMHSC facilitated any connections, participants stated "*That was all me*", "*I did that on my own*", "*I already had a community health nurse and a psychiatrist, so I just re-touched bases with them*", or "*the home care nurse has got one [psychiatrist] who I'm going to see*". Karen (family) expressed exasperation in the court giving instructions without pointing the participant or support person in the right direction, telling the SMHSC participant to "*enroll in an addictions program that is sensitive to their cognitive deficit. So how do you do that? Like {deep sigh}."* For Ryan, this disconnect between the many SMHSC expectations paired with lack of assistance in achieving those expectations was their biggest frustration, because he chose the SMHSC specifically seeking help. He explained:

> *I was hoping that they might be able to find me, not solutions, but help me find a way <u>to</u> those solutions or <u>to</u> those places, and that was no. There was no help in that whatsoever. No help with the mental health strategy finding you a psychiatrist – not for me anyways.*

For me there was no help in finding a psychiatrist, treatment center, anything to help me get off the medication that I needed to get off. There was no help for that. I ended up having to do that myself but, in the beginning the reason I went to the mental health strategy was because I thought they could help me find that.

Half of the participants represented in this study were capable of coordinating their own services, however the other half would have struggled significantly to make and attend appointments independently without the supports they identified. Both PSP and family members who were interviewed stated that SMHSC participants were directly informed of appointments, but they as support persons were not. In the support persons' estimation this frequently led to appointments being missed, which prolonged the process and increased frustration for everyone involved, and as such they expressed a desire to be routinely informed of the SMHSC plan or strategy for the participant they supported.

4.3.2.6 Support people. Participants in the SMHSC had a range of supports in their lives during the time when they were attending the court. Three participants described strong family support, and four participants had substantial professional support. Four participants stated they had minimal support, describing that a nurse or family member attended court with them once or twice, but had no substantial role, and finally three participants stated that they had no significant supports at all. In the interviews conducted for this study, on several occasions SMHSC participants or support people commented on how challenging it would be to go through the court process alone. Dan (PSP) expressed concern for other SMHSC participants he had observed, who were not 'low functioning' enough to get access to community supports, but still appeared to have significant limitations. He stated, "*I mean I kind of worry about some of the*

other individuals who are maybe a little more independent [than the person I support] going through that process alone […] I don't think it's fair for them, it's such a confusing time."

4.3.2.6.1 Tasks supported. When describing the type of assistance that support people offered, the most common responses were moral and emotional support, assistance with understanding the legal process, and advocating for the participant. Other responses included assisting participants with booking and attending appointments, reminders to take medications, and financial support. After hearing participants describe all of the actions that support people perform, I left with the impression that the SMHSC simply could not function effectively without them.

When discussing roles of support people, it was very clear that whether they were professional support, or family members, they had genuine concern for the SMHSC participant. Christopher stated that "*It was a comfort to have [my CMHN] around. Just so that he knew what was going on"*. Lisa (PSP) and Dan (PSP) described respectively "*I don't have a specific role [in the SMHSC] other than I care about Jane and I want to know what's going on"*, and "*Well I just get Tony to all their dates and try to make it as a positive of an experience as possible I guess. And then do a lot of talking with the lawyers and the crown, and even up at the docket the judge would talk to me directly rather than to Tony."* Michael described that his biggest support person was someone who worked for the FASD Network, who was instrumental in helping him to accept his new diagnosis in a gentle and encouraging way, and to combat the strong insecurities and resistance he felt when he was presented with it.

Half of the participants had a support person who attended one or more of their meetings with their defence lawyer. This attendance was particularly common for participants with intellectual disabilities who lived in supported environments, but also necessary for others who

appear outwardly to manage very well. Michael explained that *"talking to people about serious stuff like that, I forget a lot. Because there's so much going through my mind, it's part of my thing. It's like I need someone else to basically advocate for me when there's a bunch of information. I lose track a little bit, and that's my disability. Part of it*." Karen (family) explained that the lawyers don't recognize Lucy's disability, and assume that she retains more than she actually does: "*the lawyer told her, and Lucy probably nodded, but Lucy told me later, 'I don't know what the lawyer said, I don't know when I'm supposed to meet that"*. Vicky described that during meetings with her lawyer, she was self-aware that she experienced such intense anxiety recalling the events of her arrest, that she was simply unable to retain or process any information herself, which is consistent with being re-traumatized by the interview process. In her words, the reason she brought someone else with her was because "*I was so tense the entire time. I couldn't hear what [the lawyer] was saying because I would just be in a panic. So it was to get some second ears."*

Four SMHSC participants described instances where support people advocated for them throughout the legal process by pushing for their inclusion in the SMHSC, being vocal in their meetings with their defence lawyer, or standing up for them in court if they were not personally in attendance. Michael described an FASD network employee who fought persistently to have him included in the SMHSC because his disability wasn't visible, and he was initially rejected from it. He described "*in the court I remember them saying 'FASD, like what is that? Michael doesn't have FAS. And the prosecutor was like, 'No, we can't waste any time with this.'"* He stated that this FASD Network employee continued to advocate for him by providing ongoing education to the entire legal team, correcting common misconceptions about FASD that were held by both the defence and prosecuting attorneys. Had it not been for that advocate, Michael

believes he never would have gotten testing for FASD through the SMHSC, and would have spent years, rather than months in jail.

Other forms of support frequently included assisting participants with booking and attending appointments, reminders to take medications, and financial support. Several support people insisted that if they are not made aware of appointments, it is almost certain that the people they support will not attend them. Lisa (PSP) even stated that the support her organization offers is the only preventative strategy that is effective with Jane to safeguard against inappropriate or unlawful behaviour : "*we are a buffer. We are often successful at redirecting Jane."* Despite this, perhaps partially due to all participants being legal adults who are deemed by the court to have capacity to make decisions independently, family and PSPs are routinely not informed of the SMHSC plans, and are not invited to join in creating or realizing them.

4.3.2.6.2 Experiences of support people. Support persons were also asked what their own experiences were like in the SMHSC because of the large contribution that they have potential to make in the success of the SMHSC participants' efforts. In instances where the participant themselves had paid, professional, supports and were visibly disabled, the PSPs were engaged by the court team more frequently, but still not routinely. More commonly, both family and professional support persons felt that they had a peripheral role, and were essentially used as a tool to actualize the directions given to the participant by the court.

4.3.2.6.2.1 Collaboration with court team. Of all the family and PSPs interviewed, only Dan (PSP) stated that anyone in the SMHSC reached out to him specifically to describe what the court proceedings would be like in order to facilitate their supportive role with the participant. Lisa (PSP) said that the defence lawyer was always very open to having support persons present

to assist with conveying information to Jane in a way she may understand better, but that these support people were never included in developing strategies for Jane. Two participants brought family members to their legal meetings on their own volition. No participants in the study stated that their lawyer ever suggested bringing supports with them.

4.3.2.6.2.2 Poor collaboration and role ambiguity. Support persons denied having any meaningful role in court beyond occasionally standing beside the SMHSC participant when they were called up. All of the family and professional support people interviewed felt like they have valuable information to contribute, and could help to co-construct a plan that would help the participant to improve, but were not invited to contribute. Karen (family) was particularly offended by this, stating that she felt intentionally excluded, "*we don't offer no input, because if we tried, they just won't take it […] So I'm trying to say something, and they're just trying to shut me out!"* When explaining that Lucy needed an '*external brain'*, which is a common phrase when referring to someone who helps with planning and executing a plan for someone with FASD, Karen (family) felt rejected by the lawyer when they did not seek understanding or solutions. By Karen's account, the lawyer stated "*'you're not going to get an external brain; there's no sense talking about it'*" to which Karen countered in our interview "*let's find a way to make it doable, not 'we can't do it.'"*

Professional support persons stated that if they were better informed of the court process themselves, they would be able to assist the participant in remaining calm throughout the proceedings. Dan (PSP) described that Tony is "*a very restless person so even for them to sit down is very, very difficult. Even at home he's standing up and pacing",* so it is very difficult "*not knowing when Tony] is going to be called, and for us not being able to help out in that because we don't know either"*. The way Dan (PSP) describes Tony's behaviour in the

courtroom is consistent with hyper-arousal, which would not be surprising considering the traumatic events surrounding Tony's charges. Tony was "*fidgety, just kind of looking around, perusing the room, and making sure he's safe, or looking for opportunities to leave or holler at someone"*, "*he was always tense and on edge […] so right from square one walking in through the door it was: ok, this is going to be a lot of work to get in and out of here without more charges."*

In addition to having a lack of information about the court processes and appointments, in one case a SMHSC participant was transferred to several different institutions without the support agency being informed, and on the day of their hearing the participant was unexpectedly released from custody, without their medication. Lisa (PSP) summarized "*It goes back to communication […] I'm not saying that I have the answers but you [the legal team] know nothing about Jane, so you could pick my brain and I'd be very willing to do that. As in not even a plan, but to know what's happening. What's going on right now, where are we at this moment, what's going on – just to know, to be kept up to speed would be beneficial. Because otherwise, we're not correctly supporting Jane because we don't even know what's going on."*

4.3.2.6.3 Court impact on support persons and families. Particularly for participants who require substantial support, all court decisions have an impact on the people who are supporting them. Karen (family) succinctly stated "*for them to give Lucy that many conditions – and I told that to the lawyer – it's going to fall on me! You might as well be charging me!"* This sentiment was echoed by Stan (family) who felt stuck in a situation where if Jake breached his conditions that he, Stan (family), would either have to be untruthful about it, or report it and have Jake sent to jail: "*I would mention things to [the probation officer], you know like this and this, and she was like 'would you like us to come pick Jake up and lock him up?' That's my option!*

[…] When she says 'Would you like us to do this?' Well, no. I want him to get some help" In this case with family, and another with a PSP, despite the best intentions of helping with the process, the fact that support persons were involved in the court at all was at times perceived as threatening to the SMHSC participant, and it has eroded their relationship with the support providers. These support persons stated that the strain of the SMHSC process itself effected the participants in such a way that they became more aggressive at home, either punching holes in walls, or other "*physical violence, punching, biting, everything."*

4.3.2.6 Support needed for support people. Both support persons and the SMHSC participants themselves made statements that suggested that the weight of supporting the participant through the SMHSC was at times quite unhealthy for the support person, too. Jesse said *"My dad always supports me when I get into trouble like that. The one time I remember being in court and the judge was like 'you've got to quit doing this, it's tearing your dad up inside', and I was like 'Oooogh.' That's not my intention, you know?*" Karen (family) stated, "*They don't realize that, but I get depleted"*, and Stan (family) commented "*we're becoming highly dysfunctional ourselves […] it does weight very heavily on your health, I can tell you that as a statement of fact."* Stan suggested, that to mitigate some of these stresses, "*The mental health court system in my opinion should be a liaison between family and people who are affected by this.*"

4.3.3 Experiences in the SMHSC

Participants' descriptions of their experiences in the SMHSC ranged from Randy stating it was "*the best thing that ever happened to me"* to Vicky feeling repeatedly traumatically violated by the court, strongly cautioning others to *"take better care of yourself during that process because they're going to fucking rape you anyways if you don't."* Most participants

described a combination of both positive and negative sentiments. The only universal experience was one of anxiety. This section explores how participants described what going through the SMHSC felt like, and factors that contributed to these emotions.

4.3.3.1 Degree of mental health awareness in the courtroom. In describing the court, many participants made statements which reflected that their mental health was taken into consideration during their sentencing. The conditions of probation and promises that participants made also clearly had elements intended to improve their mental health. The overall tone of the court was more relaxed than participants had experienced in conventional court, however this was not enough to create what participants perceived as a safe environment. Vicky captured this sentiment well by stating "*If this is a mental health court, then [it is important to] recognize not only the impacts that mental health has on whatever it is that happened, but just the impacts of the stress of the court having on your mental health during the process*."

4.3.3.2 Anxiety, fear, and claustrophobia as most dominant experience. Without exception, this was the predominant emotion described by SMHSC participants. Their descriptions included "*scared*", "*worried*", "*petrified*", "*claustrophobic*", "*agitated*", "*tense*", "*on edge*", "*nerve wracking*", "*panic*" and "*frightening*". Two participants made note that their anxiety gradually decreased with repeat appearances, however it is interesting that both these participants were represented by private lawyers and stated that the process was explained to them very well, which was not the case for the rest of the participants. It is likely that this is in relation to time constraints experienced by Legal Aid lawyers, which limits them to performing priority functions only, without having the availability of time to adequately explain the court process potentially numerous times to participants.

4.3.3.2.1 Anxiety related to unknown. Jesse stated that the hardest part of the whole process was "*not knowing what you're up against*", anticipating the need to prepare for a fight, or conflict, with no information about what it would entail. Dan (PSP) described the unknown as being difficult, "*because there's still the charges in limbo that, you're just going through the motions for months thinking about that [the eventual outcome], every day"*. This theme of feeling left without information in a highly stressful situation was echoed again and again. Kirk said, "*You're always so nervous, like what's going to happen, what are you going to do? It's a panic attack almost."* Billy similarly stated, "*You go to court and you never know what to expect."* Lisa (PSP) and Dan (PSP) expressed comparable sentiments: "*What makes me anxious is just the uncertainty of knowing where my person is going to be […] we just don't have a lot of answers, more questions than anything else*" and "*Tony phoned the lawyer every day to find out things that they didn't know about."* A specific fear that nine of the fourteen participants or support people had, was the impression that any random court day could potentially be a day the SMHSC participant would be taken directly to jail without any advanced notice. This fear wasn't expressed in relation to having breached charges and the court finding out, it was simply a widespread feeling that they had no control over what may happen on any given day, with jail being a possible outcome. Vicky explained, *"I felt like any time anyone could just come and arrest me again, and take me away. I know it's not rational, but when you have mental health problems or struggle with PTSD, traumas are powerful."*

4.3.3.2.2 Anxiety related to crowd or to speaking in front of other people. Participants also expressed a high degree of discomfort in relation to having so many people in the courtroom. Three stated it was specifically because of the number of other people in the court. Vicky stated it was because she didn't want to "*tell my story in front of a bunch of strangers*" as

her story had many sensitive details and speaking about it made her feel very vulnerable. For Randy, the discomfort was less related to the number of people in the courtroom, and more so about the judgement he cast on himself and presumed was cast upon him, sharing that standing up in front of them made him publically feel "*like an idiot*".

4.3.3.2.3 Crisis in court. Two participants with very traumatic arrest experiences described or displayed behaviour that is consistent with being triggered in relation to their past traumas each time they went to court. As previously described, Tony experienced heightened sensory experiences and became physically agitated and often verbally volatile whenever he encountered anyone in uniform, such as the court sheriff, or when passing through security. This was to the extent that Dan (PSP) feared someone getting hurt at each appearance. Vicky stated, "*I couldn't get a handle on my anxiety and so I wasn't thinking properly. I wasn't asking the right questions, I wasn't standing up for myself or being like…having critical thinking because I was just in fight or flight the whole time"*.

Although no other participants described their experiences in the SMHSC using terminology specific to being traumatic, re-traumatizing, or triggering, considering the high prevalence of trauma in the personal histories of participants, common expressions of lacking understanding of the process, and universal expressions of anxiety and fear, it is likely trauma played a large role in many of the participants' experiences. I suspect that if participants had been asked specifically if any portions of the court process were 'traumatic', or if they experienced common symptoms of being triggered, such as overwhelming emotions, flashbacks, feeling a lack of control, heightened awareness, or feeling their heart racing, or having difficulty breathing, the majority would agree that it was.

4.3.3.2 Court process literacy. Three SMHSC participants spoke very fluently about the court process and demonstrated a sound understanding of it. Michael made observations reflecting the court's attempt to increase understanding such as "*a lot of people are lower functioning, so they basically talk to you like you're a little kid, which is fine though*." Overall, however, there were many more statements describing or reflecting a poor understanding of the process.

4.3.3.2.1 Process not well understood. From the time they were referred to the SMHSC without clearly understanding how they got there, to being unsure of what their final sentence would be, court participants expressed or demonstrated that overall many had a poor understanding of the court process, and that at times they felt that information was intentionally being withheld. Multiple participants stated that they found meetings with their lawyer to be "*confusing*", and Lisa (PSP) stated that the explanations that Jane was given were "*very quick, not allowing for comprehension.*" Ted felt that his lawyer intentionally "*Did not explain everything. They held back."* In the court itself, participants stated it was a "*blur*", or "*gibberish*", with Christopher stating, "*you have to be a real Perry Mason to understand what is in there*" (note: Perry Mason is a fictional, highly intelligent lawyer from a 1960s television series). Conditions are also written in legal language, as were forensic psychiatric reports, making them difficult for a lay person to understand, and as Karen (family) noted, there is no court liaison to help explain these documents like there are in some other courts.

4.3.3.2.2 Low functioning and poor understanding. In addition to the language of the court and healthcare being heavy with jargon, the SMHSC participants have additional barriers related to their mental state or disability. Vicky explained "*I did not have the tools to properly navigate through the system because I was in crisis over it the whole time."* Interviews with

both support people and SMHSC participants themselves indicated that three other SMHSC participants were also unstable, in crisis, or were experiencing intrusive hallucinations or delusions at some time during the court process, most commonly at the beginning of it. Other participants expressed other barriers to their own comprehension, such as Christopher explaining "*when you're on medication, you just don't think straight*", Billy sharing he was "*easily distracted*" by the environment, or Dan clarifying that due to his condition, Tony has a "*ten minute attention span*."

Lisa (PSP) observed that she saw the lawyers "*trying to communicate like they would communicate with everybody else, and that's where they're falling short*", as Jane has poor communication skills. All support persons, including both family and PSPs noted that the person they were supporting were observed pretending to understand, when in fact they did not. Stan (family) noted that Jake "*doesn't really want to be seen as this idiot, so he hides it"*, Karen (family) elaborated Lucy doesn't "*want to seem like she doesn't understand the judge so just agrees to everything, and asks questions at home later",* and Lisa (PSP) explained that Jane *"is very capable, if it's short enough, of repeating it back to you. That doesn't mean Jane understands it.*"

4.3.3.2.3 Personhood. Equal numbers of participants said they were seen and treated as a person compared to those who said they were not. Positive statements included Stan (family) noting *"everyone is showing them respect as if they're just like everyone else in society and not just people with struggles, so I very much like that",* Billy stating "*they make you feel like a person*", and Ryan recalling "*they start to get to know you a bit because they continue to see you all the time, and then they realize what situations that you're in, and they see you."* Michael felt

that as the judge got to know his case, the judge came to see Michael not only as a body in court, but as a father, and *"took into consideration 'he's a dad that's really involved in his kid's life."*

Sentiments of the opposite nature were also expressed. Christopher stated "*They don't worry about the prisoners or the people they send away, never! Because they're free and they don't have to worry about nothing*!" Kirk relayed , "*I feel like I'm treated like a ragdoll or something*" and Vicky felt strongly that "*who I am as a person wasn't considered at all*."

4.3.3.2.4 Voice. Eight participants made statements about not being heard, understood, or believed. Vicky stated that she felt systematically silenced by her lawyer because the lawyer discouraged her from speaking: "*being discouraged from sharing my story made me feel like I had something to hide*"; "*she told me all these things [that I wanted to say] didn't matter. The event had still happened and I had done what I had done and that was that*". Vicky explained that her only opportunity to share her perspective with the judge was on the last day, when sentencing would occur, and "*by then the decision had already been made.*" Three participants felt like their version of the story was powerless against the version in the police report, so they gave up on trying, with Dave explaining "*they think it's all stories, like a big story. So stuff like that I can't tell. I can't really make myself heard.*" Michael said that he brought his support person to court because this person was "*basically more educated. Enough to, you know, have people listen to them*", because when he attempted to explain the same things, he was not believed.

4.3.3.2.5 Stigma. Participants and support persons described various forms of stigma in relation to the court processes. Most frequently people discussed stigma towards living with mental illness or a disability, sometimes self-directed. Secondly, they discussed the stigma

around having a criminal record, or attending court. Finally, several participants commented on stigma around being Indigenous.

Participants described various ways that that stigma around mental illness impacted their lives, such as Billy, who feels "*everyone wants to avoid me*", and "*I'm not used to people saying good morning*" and, Kyle sharing, "*I just want to be treated like everyone else, normal.*" Stan (family) described Jake being treated poorly while waiting in line for methadone, and discussed at length the stigma of getting methadone to manage addictions, or self-medicating to manage mental health symptoms, and receiving medication for physical illness. Dave explained that he was even hesitant to describe the side effects of his medication to his prescriber, for fear of being laughed at. Two participants shared that they were initially resistant to seeing the psychiatrist at all, because they feared getting a diagnosis and having to incorporate that into their own identity.

The second most common form of stigma discussed was that of being involved in the criminal justice system. One participant did not disclose their court appearances to their employer or friends, another has not told their family about their involvement in the court even years later, despite it being a positive turning point in their life. Two participants described that their own lawyer treated them poorly. Vicky described the lawyer "*treated me like a criminal*" and caused Vicky to mistrust her, by "*not listening to me at all, and if she did, she judged me*." Michael felt at a disadvantage after his lawyer told him that they didn't believe that his disability played a role in his behaviour, and that he "*deserved to go to jail."*

Stigma toward Indigenous peoples was less commonly discussed, however this may have been because the other stigmatizing factors were common to all participants, whereas being Indigenous was not, or because I myself am not Indigenous, so participants may not have felt open to discussing this with me. However, Karen (family) did describe feeling an "*invisible*

line" in the courtroom, noting that "*the bulk of people that go through courts are Métis or First Nation, and you see a minimal amount of non-status people I call them. […] You just sense it. I don't know how to explain it.*"

Interestingly, several SMHSC participants made judgmental comments about other SMHSC participants. Some statements included Randy saying "*it has the chance to help a lot of people, but some people are using and abusing and taking advantage of that*", and *"the saddest thing with the court [...] is there's a whole pile of people that have a chance to get help, and they won't take it."* Ryan, who is not Indigenous, stated that he felt disadvantaged because he perceived that "*Aboriginals, they, it's almost like they get thrown into any treatment center that they can put them in to […] they tend to try to give them help even though they don't want the help, but they're not helping people like the regular single white male who wants the help."*

4.3.4 Participant Perspectives on SMHSC Impact

All but two participants who had completed the SMHSC process were able to identify positive impacts going through the SMHSC had on their lives. For the five participants who described their outcomes as most beneficial to them, their experience was essentially categorized as a second chance, or an opportunity to get their life back on track. The court process itself was rarely attributed to being the primary motivating factor per se, rather it gave them the time and opportunity to demonstrate that they could do better.

4.3.4.1 Motivating factors. Five participants clearly acknowledged that they would not have sought treatment at the time they did if not for the trouble that they were in. Ryan stated that his motivation was "*my mental health and alcohol addiction deteriorating my mind, my body, the way I felt, everything that I almost didn't care. And then I started getting in to enough trouble that […] I started to get a bit more intensive to find a way to get better.*" Jesse reflected

that he "*wouldn't have gotten back on medication. I quit seeing my mental health nurse. I quit seeing my doctor"* and "*something had to happen to get me back on track."* Michael said that the period of time leading up to the SMHSC was his "*rock bottom"* and that he was afraid of "*losing everything*" if he had to go to jail. When asked what influence the promises or conditions they had with the court had on their decisions, three participants replied in a similar vein. They expressed that initially their motivation came from being in the SMHSC itself, because they feared getting in trouble, felt a moral obligation, or being told what to do simply giving them a reason to get out of bed in the morning. However, that motivation shifted to more other more meaningful motivations such as "*wanting to show them that I could*", or seeing the effectiveness of the treatment itself. Three participants were motivated by positive interactions they had with SMHSC team members or healthcare providers, including Billy's lawyer who had "*faith in me*" Jesse's lawyer who made emotional pleas to him, or Michael's support person stating "*I know you could be this [better] person."* Another very strong motivating factor shared by three participants was a desire to have more involvement in their children's lives.

4.3.4.2 Positive outcomes and rewards. The five participants who described the most positive outcomes from the court all demonstrated a sense of pride and ownership in their progress, expressing that they "*earned*" their outcomes, because they "*showed*", or "*proved*" to the judge that they were capable of change. These participants described improvement in the areas of mental and physical health, stability in life, and relationships. Randy stated that it fully changed his life for the better: "*For me it was pretty much exactly what I needed. I was homeless at the time, and having a lot of depression issues and whatnot, and the court got me connected to Housing First, and I got off the streets, and it got me hooked to a counsellor, to talk through childhood situations that have been haunting me I guess. And a psychiatrist, and got on*

medication. Like, the court literally gave me back my life. I could not say enough good words for that from my experience."

4.3.4.2.1 Improved relationships. Michael said that in his life leading up to his involvement in the SMHSC he had "*just no respect for myself, no respect for others*." Two participants mentioned that they see their children much more, feel like positive role models, and have a desire and improved ability to "*provide*" for them. Three participants discussed reconnecting with other friends and family members, with Randy stating it "*wasn't easy*" for unspecified reasons, and Jesse stating it required him to "*mend some of the bridges that I burnt down.*"

4.3.4.2.2 Stability. Participants described increased stability as a result of the SMHSC as stopping a "*downward spiral*", getting "*back on track*", getting "*back my life*", that for Billy, it allowed him to do "*exactly what I need done for myself to move forward*." Other comments recognized as increased stability included three participants who had improved housing, and two with more stable or gainful employment. Michael reflected "*I was making a lot of money, but I was spending it all very stupidly on drugs and alcohol.*"

4.3.4.2.3 Mental health. Five described improvements in their mental health, giving examples such as having as "*fewer outbursts*" and "*less rage*", finding more "*meaning in life*", having a more "*positive outlook",* and being overall just "*generally happier*." Randy identified that attending counselling allowed him to "*talk about stuff, which put understanding into everything."* Michael explained, "*Well at first I didn't really want to go through with all that because I didn't really want to be told I had a bunch of issues. But then later on […] basically actually just accepting that made my life a hell of a lot better."*

4.3.4.3 Neutral. Of the fourteen SMHSC participant experiences represented in interviews, ambivalence was expressed in five interviews about whether or not the SMHSC process would have any impact on the SMHSC participants' lives. These participants described that the court did not make any new connections for them, did not make them feel any healthier, or influence their lives in any other significant ways. Throughout their interviews these participants did not make statements that suggested the SMHSC was particularly challenging or rewarding. Ted stated that although the process was more "*lenient"* in the SMHSC, he was "*still just thrown in jail.*" Both family members expressed that due to the likelihood of the participant breaching their extensive list of conditions, they may actually be more likely to spend time in jail, than if they had not gone through the SMHSC.

4.3.4.4 Negative. Four participants' experiences in the SMHSC were distinctly negative. Of these, two identified lingering negative impacts on their lives which they attributed not only to their charges, but to their experiences in the SMHSC. Randy described attending court as being mentally damaging and exhausting, despite speaking highly of the outcomes he experienced. Christopher was resentful of being "*picked on*" and sent away for assessment against his will.

Vicky, who had a particularly negative experience stated that "*nothing about the court was helpful*" and that she has "*been struggling with self-hatred for months now*", because she feels she didn't "*stick up"* for herself enough during it. Vicky feels that the SMHSC court only "*exacerbated*" her issues, and that the court outcomes impair her prospects for stability in her life moving forward.

Dan (PSP) stated that Tony's experience was probably the worst time of his life. Tony continues to ruminate about the experience months later, and has developed a lingering distrust

of police and the justice system as a result. Stan (family) similarly stated that the stress of frequent court appearances caused Jake to "*ruminate*" and "*despair*", which Jake responded to by increasing his use of street drugs.

4.3.4.5 No next steps. Whether participants described their experiences as generally positive, neutral or negative, one theme that was evident across all categories was that participants felt they had no next steps. Vicky and Ryan related this directly to having a criminal record, stating *"my future is compromised*", and Ryan lamenting "*I put all this work into getting better and now I don't have much of a future. Like, my future is pretty dry."* Billy stated "*I haven't found my place in life yet*" , while Jesse stated that although he felt well enough to take care of himself after the whole process, he reflected on whether or not he would ever have the capability to financially provide for his children. Ryan specifically sought assistance from the SMHSC in finding employment, or a list of employers that were open to hiring employees with criminal records, but the court was unable to help. This left him feeling depressed and pondering if his sobriety was sustainable if his prospects for success in life were poor.

4.3.5 Participant Recommendations for Saskatoon MHS Court

Just as participant experiences ranged from very positive, to very negative, the nature of participant recommendations ranged from Randy saying "*don't change anything*", to an outright refusal from Christopher to even make suggestions due to his cynicism and disbelief that the system ever will change. Both family and PSPs tended to make general statements about the court which reflected a sentiment that many people working in MHCs share: that the justice system is not the right place to address behaviour related to mental health and intellectual disabilities. Some comments of this nature included Stan (family) who stated "*The point there is, it's, these people are sick and they need compassion, they need help, and punishments are not*

the answer […] I am glad it exists but I think that it could do more"; Karen (family) who pointed out that *"It was set up, but the guts are missing*"; Lisa (PSP) who recognized "*We have to try something different because everything we've tried isn't working"* and Dan (PSP) who resigned *"I mean, it's the best way, if they have to go through the courts at the moment."* Most SMHSC participants fell in the middle of the spectrum, expressing that the intents of the court are good but there are certainly opportunities for improvement. Their suggestions centered on providing more information to participants themselves, providing better education or support to the court team on mental illness, listening to peoples stories, improving collaboration, and creating a more relaxed and supportive environment.

4.3.5.1 Education. The most common category of suggestions for improvement was increased education. This stemmed from participants wanting more information themselves, support persons expressing difficulties with participants due to gaps in their own knowledge, or impressions that the SMHSC legal team should have a better understanding of mental health and intellectual disabilities.

4.3.5.1.1 Improving communication with participants and support persons. As previously discussed, the most dominant and powerful source of distress and anxiety for SMHSC participants and support persons was related to simply not knowing what was coming next for them. Ryan stated the best thing for him would have been "*A little bit more one-on-one*" with his lawyer so he could have a better understanding of the process. Christopher stated "*I had to figure it out myself. If you needed anything then you had to talk to the person who can help, the warden or whatever*", which demonstrated even after the process was over, he was still unable to identify who would be the best person to ask about procedural matters. Stan (family) suggested developing several resources to distribute to SMHSC participants and support persons. The first

resource would be to outline step-by-step instructions for people in SMHSC to explain the process, and inform them of their rights. The second resource Stan (family) suggested was some form of central directory of all available mental health services in the province. Dan (PSP) echoed that if he had known what to expect in the court process, down to details about the metal detector, rules about not wearing hats or bringing water, and the roles of people in the court, he would have been able to address those unknowns with Tony prior to bringing him in, and reduce his anxiety at least slightly by removing the surprise of those elements. Karen (family) identified that there was no person in the SMHSC team who was given the role of simply providing information: "*Communication! Now that's the crux right there! Communicate! Now who is going to do it? Because it seems like everyone is running around with their head cut off."* Karen (family) also pondered why the SMHSC did not employ Saskatoon Tribal Council court workers, as they may be able to assist with addressing some of these gaps in information.

4.3.5.1.2 Educating court team. Michael, who was initially told by court staff that his disability couldn't contribute to his actions, and they expressed disbelief that he even had a disability at all, expressed that the legal team working in courts like the SMHSC "*need to get educated and I think they need to go in there with a different mindset. Or even train some different prosecutors that are more aware of these people with these disabilities […] that's what the whole system is supposed to be about, right?"* The interviewees (one family member and one SMHSC participant) who spoke most extensively about gaps in the knowledge of court staff both referred specifically to misunderstandings about FASD, with Karen (family) pointing out "*How many lawyers have told me that they don't have that knowledge, or they're not even taught it? I'm assuming judges too.*" Vicky suggested that their lawyer was either unable to understand, or unable to convey how Vicky's history of trauma impacted her actions and decisions at the time

of the event leading to her charges. Vicky also expressed that her lawyer did not recognize or acknowledge Vicky's impaired ability to think and function when triggered by revisiting the traumatic events during meetings and court proceedings. Finally, Ryan shared "*I think in the mental health strategy one of the best things that they could learn to do, and that could have helped me the best, is to have more knowledge of where you could go to find mental health help."*

4.3.6 Looking and listening. The SMHSC participants and support people expressed a desire for the SMHSC to recognize not only how their mental illness or disability contributed to the events related to the charges, but also how it influenced their experience of the court itself. They also expressed that they wanted to be given an opportunity to speak more, and let the members of the SMHSC know more about them as individuals with unique personalities, strengths, and abilities, as opposed to focusing only on their unlawful behaviour, in order to explore and create the best solutions.

Many participants experienced high levels of anxiety in the court room, which went either unrecognized or unacknowledged. Vicky stated it would have made a big difference to her if anyone has simply "*taken a minute to ask 'Are you ok? Is there anything we can do to make you more comfortable today? Do you understand?* "

Several participants felt that solutions need to be tailored to individuals, but this cannot happen without listening first. Ryan suggested that if there were *"maybe more lawyers that don't have to deal with so many clients […] maybe they could get to know you a little bit better, to know who you are, not just go by your file and say 'ok, well let's come up with this as a sentence'[…] and instead find out what a better solution would be to make a better sentence."* There was a shared sentiment that if participants were given an opportunity to speak more they

could get a better understanding of mutual expectations, feel like their perspective was heard, and work towards better outcomes.

4.3.7 Collaboration. Tying in with better communication, were suggestions for improved collaboration between the SMHSC and support persons, and the healthcare system. Participants with strong supports expressed a lot of empathy for participants who did not have any, and suggested that the defence lawyer ask participants if they want to bring someone with them to meetings and proceedings rather than not mentioning this is an option. Support persons who are very involved in participants lives expressed a strong desire to be involved in and contribute to discussions with the participant and the SMHSC team. They expressed that because they have an intimate knowledge of the participant, they know what may or may not work well for them, and are also heavily involved in making the plans come to fruition, but cannot do that effectively without being informed of the plan in the first place. They also suggested that if there was nothing required of the participant themselves on an appearance date, that they inform the support person and allow someone who is knowledgeable about the participant's actions to attend in lieu, or not require the participant to come at all.

Participants and support persons also expressed frustration with being required to access services without being given further direction on how to do so, and subsequently struggling to locate and make appointments with the correct services. One support person expressed that they would like to see more integration between the criminal justice and healthcare services.

4.3.8 Structure and process. Participants and support persons were hesitant to make suggestions related to the way the court functioned as they expressed that the criminal justice system was either unable to be changed, beyond their scope to influence, or unwilling to change.

When suggestions were made they were often minor suggestions that would likely influence the tone of the court rather than the process itself.

Participants perceived limitations to how significantly the SMHSC could improve because they perceived the justice system as being immutable and inflexible. Stan (family) describes limitations in that "*the court system can only deal with charges"* and Christopher expressed that the system is outdated: *"It's supposed to be 2017, not 1920 or 1902 with some of the laws that come out. All the laws are old and should be done away with."* Both expressed that judges and lawyers are just doing what they have to do in a restrictive system. Stan (family) elaborated, "*they're trying to accomplish what it is that they are assigned to do […] but I see a bunch of people who are trying to help us swim when their own hands and feet are tied."* Participants with these perspectives often also made comments about power dynamics in society, such as Stan (family) who lamented "*political will is lacking but it shouldn't be, due to high numbers of people effected by mental health issues"* and Dave who conveyed the courts lack understanding of "*what it's like in the real world"* because everyone working in the court is in a position of privilege, and "*they haven't been there."*

When people had suggestions for the court process itself, Dan (PSP) suggested having it "*for an hour every week instead of once a month"*, and Michael suggested "*more court dates*" and "*fewer people on the docket.*" Several people suggested getting rid of fines, and Stan (family) suggested offering incentives for good behaviour rather than punishment, or in his words "*they need a carrot, rather than so much a stick."*

4.3.8.1 Tone. Several participants described the formality of the court contributed to feelings of discomfort and Vicky suggested specifically that it be *"not so formal, so that my anxiety wasn't so high so that I could think straight enough so that I could say what I needed to*

say." Dan (PSP), while expressing respect for the rules of the court, suggested that they could perhaps be "*relaxed*" as for the person they supported *"the hat rule […] was a big problem*", as was seeing uniformed officers. Randy stated that he appreciated when he was called last, because the crowd in the room was smaller by then. Randy suggested another way of making SMHSC participants more comfortable speaking would be to "*allowing them to sit*", and Michael suggested that allowing SMHSC participants to "*write out what they want to say",* and having "*someone else read it if they were shy."* Four additional SMHSC participants also mentioned the size of the crowd made them uncomfortable, and that they would have preferred to appear without so many people in the room.

Overall, participant and support suggestions for the SMHSC were directed much more toward creating an environment that was comfortable and facilitating access to services, than it was about the criminal justice system or expectations the court had of the participants. This suggests that although participants and support persons recognized that the criminal justice system is likely not the best tool for addressing these issues, the intent is appreciated.

4.4 Summary of Chapter

The SMHSC participants and support persons shared elements of their personal histories that led them to being involved in the SMHSC, which demonstrated that their experiences in the courtroom cannot be separated from the greater contexts of their lives. They described how the SMHSC was different from, or similar to conventional court in terms of its hierarchical structure, formal function, and adversarial roles of the people who work in the SMHSC. Participants discussed what the court expected of them in terms of conditions and promises, the many barriers they faced when trying to realize those expectations, and the important roles that support people have in helping people to reach their goals. The SMHSC participants and support persons

described how they felt about their experiences, including their predominant emotions which was most often some degree of anxiety. They described how well or how poorly they understood the process, what motivated them to strive for improvement, and the impacts that they felt the SMHSC had on their lives and well-being, ranging from very positive, to utterly devastating. Their perspectives were also shared in terms of recommendations for how the SMHSC could improve in order to help facilitate positive change, coming from the very people on whom the court has the most impact.

Chapter V – DISCUSSION OF FINDINGS

Speaking with participants and support persons in the Saskatoon Mental Health Strategy Court gives valuable insight into how their perceptions of their experiences influenced the SMHSC's ability to meet its objective of providing the accused with an effective case management process (Whelan, 2013). The participants and the support persons are responsible for carrying out many directions developed by the court, thus it is important to understand how they perceive the structure and function of the court, and how they value the direction given to them. The insights shared in these interviews also helps those leading the court to gain a sense of how this particular court is perceived by participants in comparison to similar courts in North America. Many of the concepts and themes that are included in the scholarly literature on MHCs in North America are echoed in the descriptions given by the participants and their support persons in the SMHSC. An additional finding brought out by this study includes widespread experiences of trauma, and universal experiences of stress induced by the SMHSC processes ranging in intensity from discomfort to re-traumatization. This chapter will compare the findings of this study to the literature discussed in Chapter 1 and Chapter 2. Key lessons learned from the participants of this study will be highlighted, and opportunities for integrating principles of trauma informed practice in the criminal justice system will be explored. The chapter concludes with recommendations for education, support, and further research moving forward.

5.1 Comparison to Background Literature

The Saskatoon Mental Health Strategy Court is relatively new in comparison to other therapeutic courts in North America, and unlike many similar courts, operates without a dedicated budget. Due to these factors it is worthwhile examining how this specific court compares to other MHCs described in the academic literature to identify how the foundational

principles of MHCs are being applied, acknowledge strengths that have emerged despite its infancy and minimal supports, and identify opportunities for improvement. Because the perceived experience of SMHSC participants and their support persons are central to their engagement and likelihood for success, all concepts will be described from SMHSC participant and support person perspectives.

5.1.1 Mental Illness, Intellectual Disabilities, and Trauma in the Criminal Justice System

By virtue of being included in the SMHSC, all participants had a diagnosed or suspected mental illness or intellectual disability. One research observation made about the people referred to and selected for the mental health strategy court was that their illness or disabilities were blatantly obvious, due to admission to a psychiatric treatment facility at the time of the referral to the SMHSC, pre-existing consistent professional support to manage their daily lives, a history with the criminal justice system which had previously listed a mental illness or disability on their file, or erratic behaviour or symptoms recognizable by law enforcement officers, judges, or lawyers without a professional background in mental health assessment or treatment. In the only case where mental health or disability was not previously diagnosed or blatantly obvious, the participant and supports had to advocate persistently against open resistance in the court to be included. When this participant was eventually included in the SMHSC and received psychiatric and psychological assessments, receiving a diagnosis was a powerfully positive turning point in his life. Michael commented that he personally suspected there are other people like him in the regular court system not being recognized or given the supports they need. As a relatively new court, the SMHSC has previously reviewed its referral process in attempts to identify participants that would be most likely to benefit from inclusion in the SMHSC; however, the goal of this

review was to decrease the size of the docket and narrow selection criteria, rather than broaden screening to identify less 'obvious' potential cases.

Another key finding that emerged was that many participants described some form of trauma in their personal histories without being specifically asked about trauma. These experiences included, but were not limited to: being abused as a child, being sexually abused as an adult, being removed from their biological parents and placed in the foster-care system, being diagnosed with mental illness at a young age, traumatic encounters with law enforcement officials, and witnessing or experiencing violence on the streets, or in jail.

With the recognition that there are very high rates of trauma amongst incarcerated populations (Baranyi et al., 2018; Bodkin et al, 2019; Miller & Najavits, 2012), it is not surprising to see that extend to the pre-incarceration environment of the courtroom. An unfortunate corresponding observation was that the SMHSC courtroom and process had no explicit recognition of the prevalence and impact of trauma on the lives of the court participants. Rather, there were specific elements of the court process that at minimum provoked anxiety, and at worst were triggering or re-traumatizing. Harris and Fallot (2001) highlighted that many systems unintentionally mimic characteristics of abusive relationships. Examples of characteristics of abuse that the SMHSC court mimics are captured in Table 5.1.

Through the stories of participants and their support persons it was also clear that there were instances when certain participants were clearly triggered by visual or auditory stimuli in the court, and from their perspective their mental state was not recognized in the moment, or if it was recognized, it was not acknowledged and appropriate actions were not taken. In particular there were participants who had traumatic interactions with police during their arrests and were triggered in the courtroom by seeing uniformed officers, being given abrupt commands, and any

time the events leading to their arrest were discussed either in the courtroom, or in meetings with their lawyers.

Table 5.1 Examples of Characteristics of Abuse that the SMHSC Mimics

Characteristic of Abusive Relationship (Harris & Fallot, 2001)	**Examples in the SMHSC**
Hierarchical boundaries that are violated and then re-imposed at whim	- participants are welcomed to the courtroom, then sternly informed to remove their hats - participants are required to stand upon arrival and exit of the Judge, then some but not all are invited to sit when approaching the bench; - participants are spoken over for the majority of their time in court and instructed not to speak by their lawyer, then haphazardly invited to speak in contradiction to these instructions
Secret knowledge and information that is maintained and encouraged	- lawyer-client privilege - closed pre-court meetings
Having a voice that is unheard, denied or invalidated	- participant having a very minimal speaking role - participants being instructed to not speak in court by their lawyer
Feeling powerless to alter or leave the relationship	- fear that a more severe sentence would be imposed if the proposed sentence is challenged or if the participant chose to return to mainstream court - having no input into the development of conditions or promises
Reality is constructed to represent the values and beliefs of the person/system in power	- legal language and charges with labels that misrepresent intent, such as mischief, endangerment, - perception that a guilty plea implies intent to do harm; - the version of events portrayed by police officers being given more credence than the version told by participants

When the dynamics of abusive relationships are present, with or without the intensity of being triggered, it can cause resistance or inability to participate to one's best ability. Even subtle reminders of relationships where power was abused can elicit feelings of shame, embarrassment, anger, a loss of ability to think clearly, or a sense of being unsafe, or vulnerable (Bolton et al., 2013). At least one, and often several of these feelings were described in every one of interviews with SMHSC participants and support persons when asked how it felt to be in the courtroom.

5.1.2 Disproportionate Underrepresentation of Indigenous Peoples

A surprising finding that was first noted during the recruitment phase of this study was that there was a disproportionately *low* representation of Indigenous peoples in the SMHSC in comparison to their overrepresentation in mainstream court. Indigenous populations are shown to suffer a disproportionate burden of mental illness, often attributed to the intergenerational impacts of colonialism, residential schools and structural violence (Nelson & Wilson, 2017), so it is puzzling that there was a lower proportion of Indigenous peoples in the SMHSC than Caucasian people.

Despite the introduction of the Gladue Principle in 1999 (Government of Canada, 2018) there continues to be disproportionate representation of Indigenous peoples in the criminal justice system which is once again addressed by several of the Truth and Reconciliation Commission of Canada's (TRCC, 2015) *Calls to Action*. Several *Calls to Action* relate directly to this phenomenon of disproportionate representation in the justice system, including eliminating overrepresentation of Indigenous peoples in custody, implementing and evaluating alternatives to imprisonment, and reforms for the criminal justice system to better address the needs of offenders with FASD (TRCC, 2015). The SMHSC is well situated to implement these *Calls to Action* (TRCC, 2015), yet this cannot be done if Indigenous peoples are not being referred to this specialized court process.

Stigma and racism towards Indigenous peoples in Canada is persistent and pervasive (Loppie, Reading, & de Leeuw, 2014); to assume the court system is immune from these biases is naïve. Reasons et al. (2016) noted that racism and biases of court judges and lawyers has not been explicitly studied in the Canadian criminal court system, however there are numerous other indicators of biases that can be observed, such as a disproportionate number of charges being

laid, more conditions for bail, and more jail sentencing of visible minorities. They also highlight results of the *Commission of Systemic Racism into the Ontario Criminal Justice System* that found while many judges and crown attorneys perceive that racism does not exist in the courts, defense lawyers and the general public believe that there is unequal treatment of minorities in the court system (Reasons et al., 2016). The perception of experiencing racism was included in the commentary of an Indigenous SMHSC support person stating that "we" get treated differently in the court, referring to herself, the participant she supported, and all Indigenous peoples.

Although there is a lack of literature to explore referral biases to mental health courts in Canada, the idea that certain populations can be culturally perceived as more "prone" to violence, is more apparent in the media in the United States (Luskin & Ray, 2015; Wolff, Fabrikant, & Belenko, 2011). In other MHC's in the United States, the potential for referral bias has been explored (Luskin & Ray, 2015; Wolff et al., 2011). Wolff and colleagues (2011) found that, when controlling for other factors, older Caucasian females were most likely to be referred, possibly because persons of colour, and males, are culturally perceived as being more dangerous, with any violent acts being attributed to criminal intent rather than mental illness. Could a similar dynamic be occurring here, in relation to Indigenous peoples? Many outlets have commented on the media's propensity to report that crime perpetrated by Caucasians is quickly attributed to mental illness, whereas crime perpetrated by persons of colour is more likely to be attributed to gangs or terrorism (Allan, 2015). This bias was further explored by Thompson (2010), who found that African Americans are significantly less likely than non-African American defendants to receive a psychiatric evaluation to determine their mental state at the time of their offence. The assumption underlying this bias is that violent or criminal behaviour in people of African-American descent is culturally perceived as 'normal', vs. for non-African

American defendants the behaviour is considered abnormal, and therefore mental illness is a presumed a possible reason for behaviour, and option for defense.

Knowing that structural racism continues to be a problem in Canada (Loppie et al., 2014), combined with the observations of underrepresentation of Indigenous peoples in the SMHSC, and comments that include perceptions of being treated differently due to being Indigenous, the SMHSC should be compelled to take a close examination of its referral process and reflect upon whether Caucasian offenders are more likely to be seen as "mentally ill" and referred to the mental health court with expectations of reduced recidivism with treatment, and Indigenous offenders seen as "criminal" with less potential for healing and change? If not, what are the reasons for the current discrepancies? Without a formalized screening process, the current practice of relying on inclusion screening performed by lawyers and judges whose expertise is in the law, rather than mental health professionals opens more opportunities for unconscious or explicit biases influencing the selection process for participants of the SMHSC.

5.2 Comparison to Concepts in MHC Literature

After hearing the perspectives of the participants and support persons in the SMHSC, some comparisons between the literature on MHCs and insights from the experiences of SMHSC participants can be drawn, particularly in the areas of therapeutic jurisprudence, procedural justice, and perceived coercion. These concepts were not specifically measured in this study, but were alluded to by participants.

5.2.1 Therapeutic Jurisprudence (TJ)

The intent to apply principles of therapeutic jurisprudence were evident in how participants and their support persons described the court processes. In terms of the overall therapeutic influence that the SMHSC had on mental health and psychological wellbeing of

individuals (Winick, 1999), participants described both therapeutic, and anti-therapeutic outcomes. Delayed sentencing is a common strategy when implementing TJ, intended to allow participants time to access treatment, and the monitoring of involvement in health promoting behaviour (Wexler, 2000). This was seen in the SMHSC, where many court appearances were required essentially as opportunities to gather information and monitor engagement, which resulted in adjournments to allow participants to engage in treatment, attend appointments, and make adjustments to medications. Two participants identified the long process as an opportunity to stabilize and present a version of themselves that was a lower risk to the community before sentencing, but the majority of others expressed frustration and marginal utility of the lengthy process, and particularly the need to be personally present simply to hear that their case had been adjourned once again.

Therapeutic jurisprudence promotes having more direct communication with defendants (Wexler, 2000), and although this was slightly more present in comparison to the mainstream court, direct communication with the defendant in open court remained limited in the SMHSC. Notably, in the SMHSC, the judge was the only person who commonly spoke directly to participants in the court room during proceedings, and even those interactions were brief, often reinforcing a plan made by the legal team, rather than assessing participant engagement and/or wellbeing, eliciting new information, or seeking participant perspectives. Despite the brevity of interactions, participants expressed appreciating any direct communication that they did have with the judge, and noted that when they were spoken to directly it made them feel "like a person". Therapeutic jurisprudence also suggests that judges can influence behaviour by expressing satisfaction or disapproval of actions, however very few participants mentioned this technique being used, and it was rarely noted during field observations. Gottfried et al. (2014)

proposed that the content and tone of interactions with the judge was more important than the quantity of interactions, which came through in SMHSC participant narratives as well. The participants in this study described the tone of the judge as being more understanding, respectful, and even lighthearted. One participant expressed that his motivation for upholding his conditions was because he wanted to please the judge, and another participant stated that he listened to the judge because the judge was friendly, but he would intentionally "make things worse" if the judge was strict, which aligns with TJ theory and Gottfried et al.'s findings on tone.

One interesting contrast with the literature on TJ is that most studies have focused primarily on the judge's role and relationship with court participants, and there is very little information about the influence of other court actors. When asked about how they were treated in court, participants in this study spoke just as frequently about the prosecutor as the judge, and indicated that the prosecutor's recognition of their progress and perception of them mattered. This suggests that tone of the courtroom and motivation of participants may be influenced as much by interactions with all legal figures, not just judge-participant interactions which are the focus of most literature.

5.2.2 Procedural Justice (PJ)

The participants in this study described a full spectrum of experiences in regards to procedural justice components of how they were treated, understanding the rationale for court outcomes, and being heard, and their overall sense of satisfaction and fairness (Poythress et al., 2002; Tyler, 2006).

The majority of participants in this study stated that they were treated respectfully, particularly in contrast with mainstream courts. When participants expressed dissatisfaction with how they were treated, it was in relation to perceptions of being treated "like a criminal" or being

treated differently because they were Indigenous. In terms of understanding their court outcomes, participants were given clear explanations for how their sentences were determined, however the reasons for all the other conditions and interventions leading up to the date of sentencing was not always made clear to them. The biggest frustration with the process was the requirement to come to many court dates without being given any rationale for their need to appear, and having very little opportunity to contribute on the days that they were present.

Interview participants were not asked specifically about their levels of satisfaction with the process, however the tone and content of the interviews suggested that there were several factors which contributed to a participants' overall expressions of satisfaction or dissatisfaction and perceived fairness of the court process. Participants and support persons demonstrated higher levels of satisfaction and fairness when they made statements which suggested: 1) they felt they had some influence, control, or a sense of agency in the court process and in their own lives; 2) the participant's current mental state and capabilities were appropriately assessed and expectations of them acknowledged their capabilities; 3) feeling like their identity and personhood was perceived congruently with how they saw themselves; and 4) they had appropriate supports available to assist them in following through with court expectations.

These patterns suggest that although being treated well in the courtroom is one dimension that determined perceived fairness for this group (Tyler, 2006), being recognized as a person (Poythress et al., 2002), with recognition of individual abilities and limitations left stronger impressions on this group. The most adamant comments on perceived unfairness were in relation to the court imposing promises and conditions that were beyond an individual's abilities to meet, which made participants and support persons feel like the court was setting the individual up for failure, or imposing an unnecessarily heavy burden that had little impact on

public safety. Examples of this included managing long and complex lists of appointments, when day to day functioning is already a challenge, or imposing fines that participants had no means with which to pay them. This is consistent with Canada and Watson's (2013) findings that when participants have less involvement in treatment planning, it resulted in more frustration and feelings of coercion. Redlich and Han (2014) also demonstrated that higher levels of frustration and coercion correlates with MHC participants experiencing additional new arrests throughout their time in court, increased likelihood for incarceration as a sentence, more bench warrants, and discontinuation from the MHC. This suggests that the SMHSC could anticipate higher perceived fairness, satisfaction, engagement, retention, and success if they made efforts to include participants and their support persons in developing the promises to ensure they have meaning and purpose for the participants, and at a minimum are feasible for participants to achieve. There may also be value in giving participants more opportunities to speak during each court appearance, even if simply to give their own updates on their activities, goals, and challenges in relation to the court process, and share more about who they are as an individual person.

5.2.3 Perceived Coercion (PC)

Participation in the SMHSC is voluntary, as it is assumed that participants who choose to be there are more likely to follow promises and conditions and engage in treatment in a meaningful way, which will improve health outcomes, and reduce recidivism (Poythress et al., 2002). Because it is a guilty plea court, voluntary participation and informed consent are essential, as pleading guilty has an implied outcome of receiving some form of sentence at the end of the process. Despite this, only five of the SMHSC participants in this study recalled clearly choosing to proceed in the SMHSC with an understanding of the implications, and three

of those were self-referrals to court so they had a much better understanding prior to engaging with it. More commonly participants recounted being "put through", or "thrown in" without explanation, and without knowledge that it is a guilty-plea court. This is similar to the study by Poythress et al. (2002) who found that more than a third of the participants they interviewed didn't realize participation was voluntary. The idea that MHCs are truly voluntary in nature has also been challenged in other literature (Kaiser, 2010; Redlich, Hooper, Summers & Steadman, 2010). Kaiser (2010) questioned just how voluntary a MHC could be for a target population that is "poor, marginalized, stressed, unstable, stigmatized, and whose only other 'choice' may be to face the harshness of the conventional justice system" (p. 21). Poythress et al. (2002) additionally found that those who were unaware that participation was voluntary reported higher levels of perceived coercion, which was also recognizable in this study as participants who did not explicitly choose the SMHSC made more negative comments about not having a voice or any influence in the plan. In this study, two participants expressed clear resentment toward being in the SMHSC stream. Both participants also indicated that they experienced absolutely no benefits, let alone therapeutic effects, of being involved in the SMHSC. If anything, these participants found it anti-therapeutic, for some of the very reasons the SMHSC is unique from mainstream court such as pleading guilty as a starting point, and the extended processes with numerous court appearances.

Another finding discussed by several participants that demonstrated coercion was participants' perceptions that the crown attorney proposed inflated sentences in order to threaten or frighten them into agreeing to a lesser sentence. Participants were fearful that if they did not give their lawyer consent to move forward with a proposed joint submission the participant did not agree with, they would essentially be punished with a harsher outcome. One participant

commented that this practice was damaging to their mental health, and pondered how this element of the adversarial process could be considered ethical practice, particularly in a problem solving court with vulnerable populations in attendance.

The most concerning example of perceived coercion found through these interviews was a participant who commented that he was continuing to take medications that he felt were causing an increase in his suicidal thoughts and feelings because his court conditions stated that he must continue to take his medications as prescribed. Although this court condition allowed the prescriber to modify the prescription, this participant believed that he must take medications as prescribed at the time the court order was given. Court conditions which have the potential to lead participants to believe they must choose between taking medications despite experiencing serious adverse effects, or the coercive consequence of receiving a heavier sentence, have the potential to be fatal.

Finally, it was clear that not only SMHSC participants felt elements of coercion. Support persons also expressed feeling involuntarily implicated in many of the strategies and outcomes of the SMHSC process. They felt that many conditions placed on the people they supported had a significant bearing on their own daily lives, as they felt responsible for arranging appointments and facilitating attendance, or to supervise and enforce the conditions or promises the participants had been given. They felt a tension between reporting breaches of conditions, and preserving their loyalty and relationship with the person they were supporting, knowing that reporting breaches would have a negative impact on the person they were supporting. Support persons also expressed that in many cases, they personally ended up paying fines that were included in the participant's sentences as it was beyond the participants' means to produce the required funds.

Comparing the findings of this study to the background literature reveals there is a very high representation of people who have experienced trauma, and a notable disproportionate *under*representation of Indigenous peoples in the SMHSC. These findings prompted critical reflection on who is being selected as a candidate for this court and why, and how traumatic experiences in their lives may have influenced the path that led to their eventual unlawful behaviour. The findings also demonstrated how aspects of the established concepts in MHC literature specific to therapeutic jurisprudence, procedural justice, and perceived coercion present in the experiences of the SMHSC participants. Expanding our understanding of how the SMHSC can place pressures on support persons also adds a valuable perspective. Having an understanding of participant perspectives on these principles serves as a guidepost for reflection and potential modifications to the structure, common practices, behaviour and approaches the SMHSC team currently uses.

5.3 Participant Voice in MHC Studies

Similar to comparing the findings of this study to theoretical concepts credited for success, it is worthwhile comparing the participant accounts in the SMHSC to those in other well-established MHCs. This comparison helps to establish whether the findings in the SMHSC are similar and therefor potentially useful in other courts, or if there are aspects so unique that proposed strategies for improvement are not worthwhile to consider in other contexts.

5.3.1 Participant Perspectives of What Works

Canada and Gunn (2013) specifically sought to understand from participant perspectives what factors in the two MHCs they attended contributed to and undermined success. The main themes that emerged as being helpful were: 1) structure and accountability; 2) supportive services, including social and family support; 3) providing access through treatment; and 4)

facilitating motivation through reinforcing positive behaviour, and integrating rewards and sanctions in the court process.

Any comparisons drawn between the Canada and Gunn's (2013) study and the experiences of the participants of the SMHSC court are made with hesitance, as the structure, resources, and context appear to be quite different. Many of the aspects that participants in Canada and Gunn's study said 'worked' are not currently implemented in the SMHSC. The two courts in the Canada and Gunn (2013) study had been in operation for over a decade at the time of the study, had dedicated case managers which followed participants through the process from beginning to end, who facilitated making and attending appointments, assisted with gaining access to treatment programs, and checked in on their progress between court dates. They were explicitly designed to apply rewards for positive behavior and sanctions for deviating from the treatment plan or conditions (Canada & Gunn, 2013). Potential sanctions included increased reporting to MHC staff, community service or overnight stays in jail implemented during the court process rather than as part of a sentence; rewards may include verbal praise, reduced frequency of court appearances, and stated 'graduation' from program (Canada & Gunn, 2013). The SMHSC court participants do not graduate or receive formal recognition for their work throughout the court process, other than it being taken in to consideration when they receive their sentence at the end of the process. The context in the United States where healthcare is privatized also creates a context where the MHCs were able to remove a financial barrier for their participants, which is less relevant in a Canadian context due to universal healthcare provision. In addition to the court difference, the purpose of the studies differed, with this study focusing more on the experience within the courtroom. Although general questions were asked about what was helpful or rewarding, any connections that were made through the court, and what

impact the court process had on their health and well-being, specific treatment modalities were not explored in depth. With these factors in consideration, there may be value in prioritizing which factors that 'worked' in the Canada and Gunn (2013) study but are currently absent in the SMHSC would be feasible to implement and most valuable to advocate for.

In terms of structure and accountability, two participants from the SMHSC identified that various appointments and court dates gave them something meaningful to do with their day, which was helpful for them. More often participants and support persons found that keeping appointments and court dates organized without the benefit of a case manager or court liaison was overwhelming. There appeared to be relatively little oversight of their attendance to appointments until the subsequent court dates, often a month apart, beyond the verbal confirmation given by the participant to their lawyer or probation officer.

Participants in Canada and Gunn's (2013) study mentioned that they felt the MHC directly provided them with extensive supports, and was instrumental in facilitating their access to treatment. The typical experience described by participants in the SMHSC was that the participants were given direction of which supports to seek, but were required to seek them out on their own. Although this was manageable for some of the SMHSC participants, several described frustration with the lack of information provided, struggles with independently navigating the healthcare system to find the supports that addressed their needs, and being denied access to treatment due to limited in-patient beds or not meeting admission requirements. Only three of the SMHSC participants interviewed made mention of obtaining a new diagnosis, medication, or treatment as a direct result of being involved in the SMHSC. Canada and Gunn (2013) identified supports built through group therapy as some of the most important supports their study participants gained; there was no mention of any participation in group therapy or

helpful connections made with members of a group in the SMHSC study cohort. Participants in both studies identified that a major gap in the supports that they needed which was not facilitated by the courts was support in securing employment.

Participants in the SMHSC identified motivation that was more personal in nature than those mentioned in the Canada and Gunn (2013) study. Motivations varied widely, however factors that were identified by several participants included getting in trouble with the law, which made them realize their own mental health was deteriorating to a dangerous level. Participants initially feared repercussions if they did not attend appointments, however, the motivation shifted to seeing and experiencing the mental health benefits of the treatment, improvements in their relationships, and having more involvement in their children's lives. Finally, when MHC staff expressed approval or gave positive reinforcement participants identified this as a motivating factor. As with Canada and Gunn's (2013) study, only about a quarter of participants were able to recall positive reinforcement given by the court staff, or felt that their efforts were being acknowledged by the court staff. Knowing that positive reinforcement is an effective and feasible intervention that comes at no-cost, the results of this study reinforce Canada and Gunn's (2013) suggestion that it may be important to make the use of positive reinforcement more apparent in MHCs in order for participants to benefit from them.

5.3.2 Participant Definition of Success

In addition to assessing 'what works' in Canada and Gunn's (2013) study, the same participants were asked by Canada and Ray (2016) what changes they had seen since participating in the MHC. They determined that what participants identified as positive change is not consistent with the metrics usually measured to determine if a MHC is effective or not, such as reduced criminal justice involvement, fewer days in jail, lower likelihood of arrest, and

long time periods to re-arrest (Canada & Ray, 2016). Participants were more prone to discuss their improvements, or indicators of success in terms of psychiatric stability, sobriety, improved relationships, and increased engagement in life and their mental health (Canada & Ray, 2016). These themes align with the themes from the five participants in the SMHSC who identified the SMHSC as a distinctly positive influence in their lives. When asked what impact the SMHSC had on their lives, they identified noticing improvement in their mental and physical health, stability in life, and relationships. Another noteworthy theme revealed by the participants who described their experiences with the SMHSC in positive terms, is the expressed desire to continue building on their successes by securing employment, and disappointment that the SMHSC was unable to provide them with any help whatsoever with in this realm, as their criminal records were seen as a major barrier to obtaining decent work.

5.3.3 Experiences of Accused who Graduated from 102 Court in Toronto

Perhaps due to the exploratory nature of Norderg's (2015) study and this one, the overlap in themes is most apparent. Certainly the third of participants in the SHMSC who described the experience as positive overall, or negative overall spoke in terms of their lives before and after the court process, indicating that it was an important juncture. None of the SMHSC participants identified the court process itself as being a catalyst for change in their lives, but the charges leading them into the court were catalysts for change, and the SMHSC allowed them the time and additional resources to follow through with the required changes. Any participants who did not have a positive experience did recognize the potential for it to be positive, and often were disappointed that the process was not what they had hoped for and/or anticipated. Although it was clear from the interviews that the participants in the SMHSC generally felt like they were treated better in the SMHSC than in the mainstream court, there was nothing inherently

therapeutic about the court process itself. In fact, all participants described the court having an anti-therapeutic effect to a certain extent, with every participant describing the experience as being at a minimum anxiety provoking at times, and at the worst being traumatizing for two participants.

In terms of commonalties in their life experiences outside of the Toronto 102 court, Nordberg's (2015) participants shared experiences of loneliness and social isolation, minimal contact with families, histories of violence – particularly at the hands of police, marginalization, and the development of innovative strategies to problem-solve and survive in their current situations. This study explored the personal lives of SMHSC participants in less depth than Nordberg's study, however based on other comments, comparisons can still be made. All but four participants in the SMHSC study spoke of strong, meaningful social supports, and of those, all had ongoing contact with their families with most familial relationships being described in very supportive terms. Nordberg's (2015) participants identified key individuals who appeared to believe in them, and not wanting to let them down; this was similar among the SMHSC participants who described their experiences in positive terms. All participants in both studies had experienced marginalization of some form, whether due to their illness, homelessness, or racism. The experience of violence was not a prominent theme across the SMHSC study participants, although three participants described their encounters with police in violent terms, and all mentioned at least one experience in their life that could be considered traumatic, if not physically violent. The use of innovative coping strategies was not a theme that emerged through analysis of the interviews.

5.3.4 A Three Stage Model for Mental Health Treatment Court

Since the original literature review was conducted for this study, a single additional qualitative study with MHC participant perspective has been published. In this study, Eschbach, Daglin, and Pantucci (2019) used grounded theory methodology to ask 11 graduates of a MHC in focus group format how the MHC helped graduates stay out of the criminal justice system, how MHC participation enhanced graduates' recovery and wellness, and how MHC graduates continue involvement in treatment. Their key finding was a growth model that described three stages of participant experience in the MHC, with each stage characterized by different motivators for participation and progression. The first stage was motivated by negative reinforcement, particularly the threat of receiving jail time as a sanction for not participating. In the second stage, participants started to realize that the interventions they were participating were helping them to make personal progress, and they were motivated by the personal benefits they experienced. The third and final stage is characterized by personal empowerment, and setting their own short and long term goals. Secondary findings of this study included the importance of starting interventions off with meeting basic needs, such as food and housing, the importance of a network of service providers, focusing on hope, recovery, growth, and respect, and giving participants multiple opportunities to tell their own stories (Eschbach et al., 2019).

The stages that Eschbach et al. (2019) describe were not apparent among SMHSC participant narratives. This may be due to many factors, such as significant differences in the resources and function of the two courts, with the SMHSC being significantly under-resourced in comparison. Other themes, particularly the importance of giving respect, and a desire for participants to be heard are consistent with my findings.

5.4 Participant Voices in MHC Studies Summary

Taking a closer look at how the participants and support persons in the SMHSC study compare to the voices of participants in other MHCs reveals that there are many commonalities in the experiences of people going through the courts, regardless of location and structure. Notable differences highlight areas that can be improved upon.

Not surprisingly, MHC participants who went through a court with more personelle and financial resources to provide closer support and accountability, case management, and clear rewards for demonstrating compliance with a clear pathway identified these as factors that facilitated their success. Participants are prone to feel overwhelmed with the demands of the court and less likely to succeed without these types of supports in place. Despite differences in facilitating factors, one factor that gave people motivation to engage with the process, yet was notably absent in participants recollection of their experiences from both sites, was consistent and clear acknowledgement of their efforts and successes by court staff. In the SMHSC the strongest and most enduring motivators were generally positive, intrinsic motivators rather than a fear of repercussions, perhaps particularly because the sentence is delayed and so far removed from the index offense. Similarly, indicators of success as expressed by participants are not aligned with the courts concepts of success, perhaps because not being involved in encounters with law enforcement is a goal of absence of something, rather the achievement of something. Individuals likely never intended to be in these encounters in the first place, and likely would not have been if their mental and physical health had been well managed and their basic needs had been met.

If the courts, which are currently described by participants as having little to no inherent therapeutic value (Nordberg, 2015), do have an intention of creating court environments and

processes that are more therapeutic in nature, they can start by using strategies common in the mental health care field of aligning court goals or court 'promises' with personal goals, strengths, and motivations rather than the threat of further punishment whenever possible (Bolton et al., 2013; DiMatteo et al., 2011; Jin, Sklar, Oh, & Li, 2008). This approach is consistent with health teaching; deterrence or fear based teaching is less effective than strength-based approaches with client-centered goals (Bolton et al., 2013; DiMatteo et al., 2011; Jin et al., 2008).

Finally, taking a broader perspective which considers the life and court experiences of the people who participated in the SMHSC processes, this research showed that their lives are very difficult, and riddled with marginalization, trauma, and violence which is not currently being acknowledged or addressed in the criminal justice system. In the following section I will discuss trauma-informed practice, and highlight how institutions such as courtrooms can inadvertently replicate abusive or traumatic situations. I will explore recommendations to mitigate those dynamics and highlight examples of judicial practices which have already taken steps to implement a trauma-informed approach.

5.5 Making a Case for a Trauma Informed Approach (TIA) in the SMHSC

Although participants of this study were not specifically screened for trauma, through the interviews it was apparent that most of them had experienced or witnessed trauma in their lives. This is consistent with *SAMSHA's Concept of Trauma and Guidance for a Trauma Informed Approach* manual prepared by SAMHSA's Trauma and Justice Strategic Initiative (SAMHSA, 2014), which specifically identifies criminal justice settings, including both jails and courtrooms, as locations where higher than average experience of trauma can be expected to be prevalent.

The Substance Abuse and Mental Health Services Administration (SAMHSA) describes a trauma informed approach (TIA) as one that follows the following four key assumptions, and

six key principles (SAMHSA, 2014). The four key assumptions, also known as the "4 R's", are 1) *realize* the widespread presence and impact of trauma, as well as potential paths for recovery; 2) *recognize* signs and symptoms of trauma in clients, families, and service providers, 3) *respond* to the presence of trauma and 4) *resist re-traumatization* by integrating principles of TIA in to policies, procedures and practices. These six trauma informed principles (TIPs) are 1) creating an environment of physical and psychological safety; 2) establish and maintain trustworthiness and transparency; 3) utilizing peer support; 4) levelling power dynamics through collaboration and mutuality; 5) supporting empowerment, having a voice and involvement in choices, through recognizing and building on individuals' strengths; and 6) acknowledging cultural, historical and gender issues.

Upon review of Australian mental health courts, which function in a similar manner to MHCs in other parts of the world including Canada, Richardson (2019) acknowledged that providing mental health treatment alone is unlikely to reduce criminal justice involvement (Skeem, Manchak & Peterson, 2011), and as such recommended changes to MHCs that recognize and address the complexity of the participants lives in order to be more effective. Richardson (2019) advocated for considering elements such as poverty, addictions, and traumatic histories in designing interventions, as well incorporating trauma-informed approaches to justice and peer support programs in MHCs.

The experiences of the participants in this study demonstrate the importance of Richardson's suggestions, as for some participants the process of going through the SMHSC itself was traumatizing or re-traumatizing. Ways in which the SMHSC unintentionally mimics characteristics of traumatic experiences or abusive relationships was explored in more detail previously (Harris & Fallot, 2001). This dynamic has been recognized in other problem-solving

courts, and there are several examples of which that have made efforts to incorporate a trauma informed approach in to their structure and function (Benedict & Hirsh, 2016; Dierkhising et al., 2013; Drabble, Jones, & Brown, 2013; Randall & Haskell, 2013).

Although intentionally incorporating trauma informed approaches in to problem-solving courts is relatively new, there is a longer standing and continually growing body of literature in the legal field that considers the impact of trauma on persons accessing the justice system. This literature strongly advocates for a trauma informed approach particularly in the area of working with victims of sexual assault (Nevin, 2015; Ponic, Varcoe & Smutylo, 2018; Randall, 2010), and with youth involved in the criminal justice system (Branson et al., 2017; Buffington, Dierkhising, & Marsh, 2010; Dierkhising et al., 2013). Much of the research surrounding trauma informed justice in regards to sexual assault victims has been compiled by Haskell and Randall (2019) into a report to the Department of Justice, Government of Canada outlining the neurobiology of trauma, how this in turn affects and alters memory and recall in a way that is perceived as unreliable by current police and court practices, and how these practices can re-traumatize victims. Although Haskell and Randall's report focusses specifically on the victims of sexual assault, regardless of individual, the type of trauma they experienced, or whether they are a victim or defendant, if the events that resulted in them being in court were traumatic, the process can impact their memory and mental health in similar ways (Government of Canada, 2019). In their report in 2019 to the Department of Justice, in Canada, Haskell and Randall advocate for trauma informed training and education for *all* criminal justice system professionals, and close collaboration with community organizations and healthcare providers to address the trauma and mitigate the potential for re-traumatization in the courtroom, and improve justice outcomes overall (Government of Canada, 2019).

Understandably, much of the research and advocacy regarding trauma informed practices in the justice system are considering the well-being of the victims of crime. Ellison and Munro (2017) highlight how the current adversarial structure of the justice system creates barriers to victim participation such as the pressurized environment of the courtroom, the requirement to recount in detail the traumatic event which can elicit an intense negative emotional reaction, the practice of questioning the victims character and behaviour, and the inherent hierarchical power structures which leave victims feeling powerless. Current trial processes are often liable to exacerbate rather than ameliorate trauma amongst a broad constituency of victims (Ellison & Munro, 2017; Randall, 2010). Despite the focus of this literature being on victims, the authors do also challenge the justice system to consider the traumatic experiences of defendants, and are joined by James (2020) in considering vicarious trauma on people who work in the court system as well. Randall and Haskell (2013) argue that in these instances a trauma-informed, restorative justice approach has the potential to empower and may even offer a certain degree of healing to victims by facilitating their ability to construct a meaningful and validating narrative about the events.

Prioritizing a supportive environment for victims and young offenders is absolutely appropriate, however if the ultimate goal is to prevent violence from occurring, or re-occurring, all of our systems need to recognize, acknowledge, and address the trauma of offenders as well. Ideally this would occur in all of our systems including education, welfare, healthcare, and justice, in order to identify potential for or early experiences of trauma – however the current reality is that it is often not acknowledged until people become very sick or violent, leading to hospitalizations or incarcerations, and perpetuating the cycle. Thankfully, the same trauma-informed processes that would make the courtroom a safer and more supportive environment for

victims would also result in safer environments for defendants (who are also victims of prior crimes whether pursued in the legal system or not), and reduce vicarious trauma for those working closely with this these populations. Interventions do not need to prioritize a specific group of people to have widespread benefits.

Bringing focus back to the SMHSC participants, many parallels can be drawn between the factors that appeared to most strongly influence the overall sense of satisfaction or dissatisfaction that SMHSC participants expressed previously (influence/control over process, recognition of current mental state and acknowledgement of capabilities, personhood, and appropriate supports), and the degrees to which SAMHSA's TIA assumptions and principles were purposely or inadvertently present or absent in their experiences. Systematically implementing these principles would require a significant shift from the current operational practices of most traditional courtrooms, structured around hierarchy and the adversarial process. Fortunately there are many resources available to guide this type of change, and examples of successful implementation (BC Centre of Excellence for Women's Health, 2019; Benedict & Hirsch, 2016; SAMHSA, 2019).

Drabble et al. (2013) interviewed key informants in a family drug treatment court that recently conducted a TIA "walk-through" assessment using a tool to guide them. Following the walk-through, staff reported an increased awareness and compassion for what their clients had experienced. When behaviours that appeared to be irrational or inappropriate were noted, they more frequently were able to "think trauma first" rather than making negative assumptions about the clients. Staff found that clients were more engaged and responsive to them, and staff themselves reported increased job satisfaction (Drabble et al., 2013).

There is also the example of Judge Marcia Hirsch who resides over several problem solving courts, including a mental health court in New York, who has collaborated with Alyssa Benedict, a consultant who specializes in the implementation of trauma and resiliency informed approaches in the criminal justice system to adapt the courtroom to meet the clientele's needs and improve outcomes. In a webinar where they discussed key components of their experience with this shift, some of the noted changes that were shared included creating a more colourful, hopeful, and supportive environment, where those in conversation sat in a circle facing each other to signal respect and collaboration, rather than hierarchy and an adversarial process and tone (Benedict & Hirsh, 2016). Many of the changes in structure and format that Benedict and Hirsch suggest have roots in restorative justice principles and the practice of sentencing circles, which were developed as an alternative to the government imposed criminal justice system in Indigenous communities (Plett, 1999). Sentencing circles give every person present an equal opportunity to speak, often in four rounds, removing the intimidating hierarchy that conventional courts reinforce. The goal is to speak with the intention of discovering root causes, healing, making amends, and developing a consensus for a sentence from which the judge can develop a formal ruling.

There is growing recognition that the basic functions of the court can be triggering, and that if people in the courtroom are triggered, they will not have access to the brain function necessary to understand and integrate the proceedings, which is where creating that calm and supportive environment becomes essential (Benedict & Hirsch, 2016; Mental Health Commission of New South Wales, 2017; Richardson, 2019). The implementation of trauma and resiliency informed approaches in the criminal justice system is not only about treating people with dignity, but it is also about facilitating a full understanding of the court process.

Incorporating a TIA in mental health courts aligns perfectly with therapeutic jurisprudence concepts that recognize that the way the law is applied can have a positive or negative impact on the mental health of people attending court (Winick, 1999). Recognizing trauma as a root cause of unlawful behaviour and facilitating steps for justice involved individuals to recognize this and seek support for it is also consistent with therapeutic jurisprudence (Wexler, 2000). Making TIA a standard in mental health courts simply feels like the only possible natural progression of all forms of problem-solving courts. One could also argue that due to the ubiquity of trauma in the population involved in criminal justice systems, it should be the natural progression of all criminal justice related services.

5.6 Recommendations for the SMHSC

Many of the recommendations fit beneath the umbrella of implementing trauma informed practices, however those outlined in detail are those which address specific areas that appear to be causing the most distress and dissatisfaction, or appear to be a barrier to engagement in the MHC process from participants and their support persons at the time that this study was conducted. The general categories for recommendations include increasing healthcare professional involvement, providing education, modifying the environment, and further research avenues.

5.6.1 Increasing Health Care Professional Involvement: Potential Roles for RPNs or RNs

At the time observational data was gathered for this study, a registered psychiatric nurse (RPN) attended all SMHSC dates, including the pre-court meeting. In the pre-court meeting, if a SMHSC participant was absent, the RPN would disclose if the participant was unable to attend court due to receiving inpatient treatment. During the court proceedings themselves, the RPN introduced himself to the gallery at the beginning of court proceedings, and would invite

participants and support people to approach him to "chat" if they had any questions related to their mental health, resources, or medications; however, these discussions occurred on the initiative of the participant and support persons, and were rarely observed. On occasion, the RPN approached a participant if he noticed behaviour that signaled that the participant's health was deteriorating, or the defence lawyer would invite the RPN into private meetings with a court participant during court breaks. The majority of the time the RPN's role was as an observer of the court proceedings. Although the consistent presence of the RPN suggests that the value of having a nurse present in the SMHSC was recognized from the outset, it appears that the role of the nurse was not clearly defined, and continues to be explored. There is a possibility that there is a perceived power dynamic implied by the court structure which prioritizes the role of legal professionals over healthcare and other professionals in the court, and that the RPN has not clearly described or advocated for their own full potential scope of involvement. The RPN remains employed by the health region, rather than the court, and as such may also be limited by the amount of time the health region has allocated to them in this role. Attending the SMHSC accounts for only a small portion of their own workload, however there would easily be enough work to create a full-time case manager position.

There are numerous reasons why an RPN or RN, particularly if they have experience in forensic nursing or community mental health nursing are ideal professionals for this role as case manager. Not all roles for case manager are unique to nursing, but the same combination of knowledge and skills is not found in any other profession (Registered Psychiatric Nurses Association of Saskatchewan [RPNAS], 2013; Saskatchewan Registered Nurses' Association [SRNA], 2015).

5.6.1.1 Assessment skills: Screening for inclusion. From an observer perspective, the selection of participants for the mental health strategy court appeared to be something that the court team was continually attempting to modify in order to capture those participants who had the highest potential to benefit from this alternate stream. This concern is not unique to Saskatoon. Since the inception of MHCs there have been questions about who is chosen for inclusion, considering the very high prevalence of mental health concerns among defendant populations. In addition to the referral bias based on ethnicity and gender, these studies described that having a pre-existing diagnosis was an inclusion criteria for being considered for MHCs, and people with certain mental illnesses such as schizophrenia and bipolar disorder were more frequently included (Luskin & Ray, 2015; Wolff et al., 2011).

In the Saskatoon MHSC, knowledge of a pre-existing diagnosis is not required, although it is very common. The concern from a health care perspective was that none of the potential candidates in the SMHSC were selected based on any input from professionals with a mental health background. Nurses with a background in mental health have the ability to casually or formally perform mental status assessments, and recognize more subtle indications that individuals are experiencing mood or perceptual disturbances which may be easily overlooked by legal professionals. They also have more education in assessing the SMHSC participant's ability to comprehend the information that is being presented due to their current mental state or intellectual disabilities (RPNAS, 2013; SRNA, 2015).

The RN or RPN could be present in docket court and observe behaviour of defendants, review cases for common patterns of behaviour that may indicate mental illness or cognitive delay, or be available to Legal Aid to be present in early interviews. This could increase the likelihood of identifying and referring people who truly are living in the community without

appropriate supports, and perhaps even without diagnoses or history of treatment. The current practice has a propensity for including individuals who are already engaged with both the mental health system and the criminal justice system, and despite existing connections continue to cycle through. Those who may benefit most may not be those who are most blatantly ill, as these individuals often have already been connected to health care and social services, and have diagnoses and supports that they are using or not using to varying degrees. The SMHSC process may permit them more time to reconnect with services before sentencing, however it is not adding anything significant to help achieve more stability in their lives. Rather, this study suggested that it was individuals whose mental health and cognitive challenges were not blatantly apparent who benefitted most from being involved in the SMHSC, as they received a new diagnosis and treatment through this process. These two participants' challenges were subtle enough that they were not apparent to professionals whose expertise is in the law, rather than mental health.

5.6.1.2 Ongoing assessments of current mental status. An important finding that emerged was that participants' expressed that their current state of wellness, or lack thereof, was not addressed by the court team members that they interacted with. In some cases this oversight had potentially alarming consequences, such as Vicky, who described being too provoked, and likely triggered by revisiting the details of the events leading to her charges in meetings to understand her lawyer's instructions, or Dave, who was experiencing suicidal ideation in part due to the medications that he was taking, but perceived that the court mandated compliance with the current medication regime as part of his conditions. These mental health concerns were overlooked by legal practitioners who should not be reasonably expected to assess, notice, or address changes in mental status or challenges to medication compliance. In addition to

including a RPN or RN in the screening process for inclusion to the SMHSC, I recommend creating an opportunity for participants to consent to including a nurse in their early interviews with their lawyer. By including someone who is educated and skilled in assessing participants through observation, asking further assessment questions, and using grounding techniques when a participant is dysregulated, or providing education about their mental health care management, participants may feel more supported, more empowered, and more likely to engage in managing their health, and ultimately in the court process (SAMSHA, 2014). Alternately, or complementarily, legal practitioners should be provided with education on how to recognize signs that their clients may be having difficulty self-regulating while reviewing their case files or in the court room, strategies for assisting their clients in this state, and a set of questions to assess safety and suicidal ideation in their clients.

5.6.1.3 Medication knowledge. All but two participants in this study discussed their medication regimes and the importance of being on the right medication in relation to their experiences in the SMHSC without being prompted. For one participant, his misunderstanding of the relationship between his medication and the court process had potential to be life-threatening. This suggests that having someone on the SMHSC team that has an understanding of the medications that participants are taking would be valuable in supporting success and protecting the safety of participants. Both RPNs and RNs have the ability to assess effectiveness and side effects of current medication regimes, recognize undesirable or life-threatening side effects, and provide teaching and counselling regarding strategies to mitigate undesirable effects or advocate for immediate change or discontinuation in unsafe medication regimes (RPNAS, 2013; SRNA, 2015).

5.6.1.4 Counselling skills. All RNs are educated with basic counselling skills, and RPNs have more extensive education and experience to further develop their counselling skills (RPNAS, 2013; SRNA, 2015). Depending on the individual nurse's professional experience, they may have specialized training in various counselling modalities such as motivational interviewing, cognitive behavioural therapy, dialectical behavioural therapy, and addressing specific challenges such as anger management, anxiety, depression, substance use, to name a few (Austin, Peternelj-Taylor, Kunyk & Boyd, 2019; RPNAS, 2013; SRNA, 2015). Health practitioners who provide counselling, such as RNs, RPNs, and social workers (SW) are also trained in assessing readiness for learning and engagement (Prochaska & DiClemente, 1982), and may have insight in to which potential candidates are ready to engage in the process vs. those who may be choosing it because they have heard it is 'easier' than the mainstream court.

In addition to nursing education providing RNs and RPNs with assessment skills, medication knowledge, and counselling skills, they have philosophical foundations in patient and family centered approaches, and trauma informed practice (Austin et al., 2019). An RN or RPN who has been working locally, particularly in community mental health or forensic nursing, would also have a knowledge of available resources, and established relationships with existing service providers and community networks, which would improve the SMHSC's ability to make timely and appropriate referrals. For all of these reasons, should a position for a full time case manager be developed and funded, an RN or RPN working to their full scope and having a strong role would be ideal team members in the SMHSC.

5.6.2 Education and Resources

Although it is not feasible to educate all team members and persons who attend the SMHSC on all aspects of the legal system or mental health, there are a number of priority areas

in which increasing education should be targeted. Having a better understanding in these areas has the potential to improve the experience and outcomes for SMHSC participants and their support persons, as well as job satisfaction for SMHSC team members.

5.6.2.1 Education and support for practitioners. Although there are many avenues of education that could be explored, educating all team members on trauma informed approaches (TIA) should be a priority. The principles of this philosophy apply to all people present in the courtroom, and do not require specialized knowledge of law, diagnoses, treatment, or cognitive functioning. Although there are specialized strategies for sub-populations, such as children, or gender-based practices, at their foundation they are universal and effective.

In addition to incorporating principles of TIA, an ideal scenario for the SMHSC would be to have an integrated inter-sectoral team of HCPs and legal practitioners working together closely on each case, including, most importantly, a case-manager who would follow participants throughout the process and help them connect with resources. However, in the SMHSC, current budgetary constraints, and limits to the mandates of each department limit the amount of funding available to create such teams. A more manageable approach may be to increase the shared knowledge base of all team members. Although it is unreasonable to expect practitioners in either field to be fully versed in both law and mental health, basic education for community MHPs about the process of going through the court system could help them prepare their patients for what to expect, and provide them with tools to cope with the challenging situations that may emerge. Conversely, educating lawyers and judges on the diagnoses that they will most commonly encounter, patterns of behaviour that are indicators of mental illness or intellectual disabilities, trauma, dissociation, grounding techniques and motivational interviewing could possibly make them more effective in their work.

No matter how educated or prepared the person interviewing and assisting the court participant in the legal process is at recognizing and responding to mental health concerns, it is worthwhile mentioning that if their caseload is overwhelming they will not have any opportunities to apply these skills and strategies. Every participant in this study who worked with Legal Aid commented on the workload of their lawyers, and how they felt their lawyer's workload negatively impacted their experience with the SMHSC. Before expecting more of these lawyers, they must first be given more time and support to work with these individuals with complex needs.

5.6.2.2 Education for participants and support people. The court system is confusing, intimidating, and potentially anxiety-provoking for virtually anyone who encounters it for the first time, and more so for defendants. Basic information, such as knowing that there is an x-ray machine in the entryway, that certain objects are not permitted in the courthouse, the dress code and rules of comportment in the courtroom, and the general flow of proceedings prior to arriving could help people feel less disoriented and fearful of breaking rules they were unaware of prior to arriving. The proceedings themselves are very foreign to anyone outside of the legal community, with legal jargon being prevalent, and cases referred to in coded language as "information number 123". Participants and support persons often feel as though they are intentionally being left in the dark, compared to the legal team. Although the legal jargon is likely for reasons of both efficiency and preserving confidentiality of the defendants, it can increase confusion, and a sense of feeling excluded and having little control over one's own outcomes.

Very few of the participants and the support persons in this study were able to clearly articulate what the purpose of the SMHSC was, and their own role within it. They frequently

expressed a fear of the unknown, whether it was not knowing when they would be called, what would be discussed, when they speak, if speaking would get them in trouble, what the purpose of repeat appearances were if only to be adjourned, and most of all, not knowing the likely disposition of their case until their final appearance, which could be up to two years after the first appearance. One participant expressed they go to court each time wondering whether or not they would be apprehended that day.

Providing participants and their support persons with basic information about the purpose of the SMHSC, general rules of the courthouse, and the flow of proceedings prior to their first appearance could make it less intimidating and anxiety-provoking. As the process continues, explaining the purpose of their attendance with each appearance and their own role in being there, and the most likely direction of conversation and anticipated actions that would occur would help them mentally prepare and use their own coping mechanisms and strategies prior to arrival.

By the very nature of having court conditions given, many life directions and many decisions are taken out of personal control, such as where one is required to reside, what they may consume, how they may cope with stressors in their life if they currently self-medicate, where they can go, and what time they must be home. Educating participants on the rationale for conditions, as well as educating them that they may continue to discuss and ask questions about their conditions, such as the fact that most continue to have a legal right to refuse or modify treatment, may decrease the sense of confusion and loss of autonomy.

The other knowledge gap that came up repeatedly in conversation with participants and support persons was confusion about accessing appropriate services. Once again, having a case manager that could help participants and support persons navigate the numerous and nuanced

programs, services, and agencies which provide assistance to people living with or impacted by mental illness or intellectual disabilities would be an ideal situation. A lower cost-alternative would be to maintain and provide an up-to-date resource guide which could be provided to all participants, highlighting recommended agencies to contact first.

Receiving more education on process, and supporting a sense of agency, involvement and choice in process are principles of trauma informed care. This extends to both court members, and court participants. Creating a position for a case manager with a mental health background would be ideal, but lower-cost alternatives available by using existing professionals present in the courtroom more efficiently. This would have to begin with providing those professionals with the education and support they need as well.

5.6.3 Creating a Trauma-Informed Environment and Process

Creating a trauma informed environment starts with a sharing a common philosophy, and being able to answer with relative consistency across team members "Why are we here? Why are we doing this?" (Benedict & Hirsch, 2016). Doing a walk-through of the courthouse and courtroom, and potentially the lawyer's office with a pre-existing checklist can help identify potential triggers, and provoke reflection on current status-quo practices and procedures that if modified may increase comfort and a sense of safety for participants, without compromising the security of the building or legal goals and requirements. Some specific elements that emerged from interviews as being triggers for participants that could be taken in to consideration are the physical layout of the room, the rules of the courtroom, and the presence of the uniformed court officer, which all reinforce power dynamics that put the participant in a position of inferiority.

The power dynamics and perception of "us" vs "them" is also very apparent in the SMHSC by virtue of the courtroom layout, and flow of communication primarily between the

judge and lawyers. Participants and support persons are very aware of the adversarial process, and have no sense that the court as a whole is there to support their success; many commented on having a perception that the crown lawyer's role is to work against them. Some MHCs do not maintain the adversarial process, or at least the differences in opinion between the crown and defence are not demonstrated in front of the participants, as they are quick to sense this tension and feel threatened by it. The value of maintaining the traditional appearance of the adversarial process in MHCs may be worth reflecting on and reconsidering as it increases participant anxiety and perceived coercion.

Having the judge, lawyers, and other SMHSC staff sitting in a circle which included the participants and their supports instantly creates more of an atmosphere of collaboration, and levels the power dynamic to a certain extent. At the very least, the participant should not be physically separated with a barrier, seeing only the backs of the lawyers, without clear opportunities to contribute. Each team member and participant should be given an opportunity to speak, to increase a sense of empowerment and being heard, even if the their comments are related to their progress or home life more than the details of the case. Goal setting and promises should be made in collaboration with the participant and support persons to ensure they are meaningful, achievable, and relevant, and that the participant will take more personal ownership of them rather than perceiving the conditions or promises are being mandated or imposed. The team should be intentional about providing positive reinforcement regarding the participant's strengths, and especially when participants are achieving goals, in order to increase a sense of empowerment and motivation. The SMHSC does not currently give any rewards or incentives to participants who demonstrate adherence, growth, or improvement, which has been incorporated in to other MHCs. Although health goals are different than legal goals, health research has

shown that people are more likely to be compliant with treatment, medication regimens, and exercise if the goals set with HCPs are aligned with the patient's own goals and strengths, and are motivated by positive outcomes rather than fear (Bolton et al., 2013; DiMatteo et al., 2011; Jin et al., 2008).

Another trigger mentioned by several participants was the abrupt way in which rules which were seemingly mundane, such as removing hats in the courtroom, were enforced. Whether this rule is based on a tradition of showing respect, or if it is a security concern may be worth reflecting on. If it is the former, could tradition be sacrificed for maintaining comfort and reducing conflict and tension? In the same vein of consideration, the court officer was viewed as an intimidating and a trigger for several participants. Their presence for security reasons is not in dispute, however perhaps it is worth considering having a plain-clothes officer whose presence is more subtle, rather than having them take a prominent position in the room, projecting authority and power upon a room of people of whom many have had challenging encounters with law enforcement agents in the past.

Overall, the SMHSC can evaluate what physical and procedural aspects could be modified to meet security and justice needs, but reduce anxiety and stress, and increase choice, perception of choice, empowerment, and safety for the population present (Bolton et al., 2013). Many of these modifications would require a philosophical shift, however could be implemented with few additional costs.

5.6.4 Involvement of Support Persons

Support persons who were interviewed as part of this study described that their current role in relation to the SMHSC was to essentially provide moral support to the person they attended court with, and essentially to help them implement the conditions, promises, or

directions given by the court. They expressed clear dissatisfaction with not having a larger role in assisting the court team come up with a realistic plan or promises for the person that they supported which had more potential to make a positive difference in their lives. Support persons felt that the court increased their own personal burden of responsibility, and at times placed them in a position that had potential to compromise their relationship with the person they supported, being forced to choose between being loyal, or being honest and reporting breaches in conditions to the court. Support persons expressed initially feeling optimistic, and willing to contribute their knowledge of the person they supported, with information about their diagnosis, previous history with treatment, strengths, weaknesses, and goals. They shared that the court made minimal effort to involve them, leaving them feeling overlooked, undervalued, and that the person they supported was misunderstood. This research suggests that particularly in this context where a case manager is not available to develop a case plan, arrange appointments, facilitate attendance, and explain the process to SMHSC participants, being intentional about involving any support persons who are engaged and present in the court would increase the likelihood that interventions are relevant and reasonable, and participants would be more likely to succeed.

Each of the recommendations that emerged from this study fit within the framework creating a trauma informed practice. Improving screening and assessments, and equipping the court team with strategies to respond to an individual who may be triggered would ensure that the challenges people bring with them are acknowledged, recognized, and responded to appropriately. Creating an environment that feels safe and supportive, and involves people who know the SMHSC participants best will foster a sense of trust, choice, and empowerment. Together these elements create a system that allow individuals to feel that they are capable and

supported in making positive changes in their lives in areas that they may have previously struggled in. The current system inadvertently damages participants' feelings of safety, dramatically increases anxiety and confusion, and undermines their personal power, choice, and sense of agency.

None of these recommendations are relevant only in a problem-solving court, or specific to mental health courts. Ideally over time all systems that serve the public will recognize the ubiquity of trauma. The very concept of mental health courts originated with the recognition that social safety nets such as community health services are not robust enough to support people adequately, and this contributes in part to why they end up exhibiting behaviours that are unlawful (Schneider et al., 2007). The most appropriate place to increase resources is prior to the criminal justice system, however, the current reality is that the criminal justice system in particular serves a population with very high rates of experiencing trauma, in both their victim and defendant populations. The ultimate goal of reducing recidivism is less likely to be achieved unless the criminal justice system acknowledges trauma as an underlying factor effecting not only youth, persons living with addiction, mental illness, or intellectual disabilities, but in nearly every individual who accesses it.

5.7 Further Research Recommendations

There are many potential avenues of research possible that come to light after exploring the experiences of participant and support person perspectives in the SHMSCs. A priority research area is gathering more information about the prevalence of trauma in the adult population that is justice-involved, and how that trauma relates to their experiences in the courts. How frequently, and to what extent are defendants triggered during their legal proceedings, including in meetings with their lawyers, and how does it impact the defendants' understanding

and engagement in the process, and the integrity of their decisions, directions, and ability to engage with and comply with conditions or directions given by their lawyers and the court.

The Saskatoon Mental Health Strategy Court (SMHSC) would benefit from performing a trauma-informed walk-through assessment either with a trauma consultant, or as a court team. Following this walkthrough the shared findings about potential triggers and intended modifications would help to inform the practice of other relatively new, relatively small problem-solving courts.

Performing a pilot study which included involvement of a health care professional, such as an RPN, RN, or nurse practitioner with forensic mental health experience in the referral process to mental health courts would demonstrate if there are discrepancies between determination of potential for community risk, and potential for benefit and improvement from being involved in a MHC court vs. conventional court. Following the clients and tracking their successful completion and recidivism rates would also inform the value of this involvement. Another research avenue that would strongly rely on healthcare professionals would be developing a tool that could assist in identifying defendants with no existing diagnoses, or more subtle patterns of behaviour reflective of mental illness or intellectual disability that are not apparent to practitioners of law. In this study, two of the participants who benefited most from involvement in the SMHSC were those who received proper diagnoses through becoming involved, and were connected for the first time with appropriate resources. The majority of others were already cycling through the system.

Research has demonstrated that addictions, mental health, and other counselling services that adopt a trauma-informed approach have better outcomes for patients (Bolton et al., 2013). There is value in knowing if trauma informed courtrooms also have better outcomes.

5.8 Strengths and Limitations to the Study

5.8.1 Limitations

A limitation that is common to all studies involving MHCs is their lack of generalizability, as each court's design, composition of the interdisciplinary team involved in the court, and partnering services is highly variable. The SMHSC differs significantly from other MHCs in several ways which must be considered when seeking comparisons to other contexts. The SMHSC receives no dedicated funding, and perhaps due to this it does not offer incentives to reward participants making positive strides. Also likely due to lack of funding, the SMHSC does not have case management workers to assist participants with navigating the health care or legal systems, and implementing the recommendations made by the court. These factors would likely shape the experiences of participants in other jurisdictions in a way that some of the findings and recommendations of this study would be less applicable to courts with those resources incorporated into their design.

5.8.1.1 Data search limitations. Many other MHCs have conducted formal or informal interviews with participants who have been through MHCs, however these are often not published in academic journals. There are also elements of participant voice embedded in other studies or reports where participant experiences complemented or supplemented other information being gathered, however the participant perspective was not a central element of the articles or reports, and electronic searches do not capture this.

5.8.1.2 Sample limitations. A further limitation of this study stems from the small number of participants involved in the study, and their diverse characteristics. The SMHSC has remained dedicated to having a very broad inclusion criteria in terms of underlying conditions which make participants eligible for the MHC. Due to this broad criteria there is a wide range

of people living with mental disorders and intellectual disabilities represented. This contributed to a very rich diversity in experiences that were shared, but very little uniformity in their experiences which could be assumed to apply to all future participants, or any remote semblance of a "universal experience". Although maximum variability in the sample was sought, because the population is known to be difficult to reach and recruit, it may be biased to include more high-functioning participants who are well supported, and may miss the experiences of those who have not maintained strong connections with community resources.

Despite efforts made to construct an inclusive sample, there are several groups of people who are undoubtedly missed by the recruitment strategies used. Former participants of the SMHSC who were the most ill or isolated would not have been captured, due to challenges in reaching them, and an expressed intent to do no harm, thus excluding people who could be triggered by recounting their experiences. Other people who were not included are former SMHSC participants who were incarcerated at the time of the study, or who opted out of the SMHSC. Another sampling factor that may have influenced the results is that any participant who expressed interest in the study met the stated criteria and was included, regardless of when they participated in the SMHSC. The court itself has evolved in several ways since its inception, so not all participants necessarily experienced the same SMHSC process or interacted with the same court staff members.

5.8.1.3 Limitations to methodology. The completion of this study was also impacted by a significant bureaucratic delay renewing a memorandum of understanding between the Saskatchewan Ministry of Justice, the SHR, and the CFBSJS which postponed recruitment by eight months, and personal events that delayed data analysis by 10 months after interviews had been completed and member checking by a further eight months. I attempted to compensate for

the delay between data collection and analysis by returning to the SMHSC and conventional court for additional observation periods, and by fully immersing myself in the study analysis by taking a leave of absence from my employment to minimize distractions and further delays. This delay also resulted in only being able to make contact with three interview participants for member checking during the data analysis process and development of findings.

5.8.2 Strengths

This study is one of very few that focused primarily on perspectives of MHC participants to learn more about their experiences and insights, which matters because they are most profoundly impacted by the process. This study is also the first that I am aware of which includes the voices of family and professional support persons who accompanied and supported MHC participants through the court process and in their personal lives during the time period that they were court-involved.

All interviews were performed, transcribed, and analyzed by the same researcher, resulting in a very immersive experience and intimate knowledge of the data. Because the interviews were recorded, the intonation in participants' voices was also captured, which allowed for a deeper contextual understanding of what they were expressing. Recording and transcribing all interviews also provided the ability to review them for accuracy, and 'fit' of themes as they emerged.

Taking an inductive approach to developing broad research questions and exploring emergent information rather than searching for a predetermined variable allowed new insights that are not prominent in other studies to appear in the findings. For example, by asking how the participants were treated in court in general, it became apparent that interactions between *all* court staff and the SMHSC participants play an important role in the participants' perspectives,

whereas previously only the interactions between the participant and the judge had been examined. The abundance of comments about Legal Aid being overloaded, and there being minimal assistance in connecting with community resources also highlights the crucial importance of having a case manager involved in MHCs to both distribute some of the work that is loaded on to Legal Aid when no one else has this role, and to provide more consistent guidance and support to participants between court dates. This study may be used as evidence to advocate for the inclusion of a case manager in MHCs where the resources for hiring one have not been provided to date.

Taking a qualitative approach to hear from SMHSC participants first hand, and inviting them to elaborate captured more depth and insight in to the experiences than surveys measuring predetermines variables. For example, reading that a participant expressed "*they're going to rape you anyway*" leaves a very different impression on a reader than a score of "0" on a Likert scale of satisfaction or fairness ranging from 0-5. Qualitative data also highlights other variables that merit being measured, such as screening for childhood and adult experiences of trauma.

Chapter VI – SUMMARY AND CONCLUSIONS

The Saskatoon Mental Health Strategy Court was developed as a response to judicial advocates noting high numbers of defendants in their courtrooms who were living with mental disorders or intellectual disabilities, and wanting to find more appropriate tools than jail sentences to balance public safety and these individuals' needs. Local legal professionals, mental health professionals, and academics developed the SMHSC without additional funding or resources made available to them, and since its inception it has been constantly evolving. The Centre for Forensic Behavioural Sciences and Justice Studies (CFBSJS) at the University of Saskatchewan committed to performing studies on the effectiveness of the SMHSC. *The experience of participants and their support persons in the Saskatoon Mental Health Strategy court: an exploratory study* is a portion of that work, which captures the perspective of SMHSC participants and several family members and professional support persons who accompanied and supported SMHSC participants through the process.

This study adds a number of new findings to what was previously known about participant experiences in MHCs. The overall impressions that the Saskatoon Mental Health Strategy court (SMHSC) process left upon participants and their support persons ranged from being an overwhelmingly positive turning point in some participants' lives, to a tremendously negative and damaging experience with lingering harms and trauma. This study draws information from participant and support person experiences that may be used to modifying the structure of the SMHSC or other mental health courts (MHC) with the hopes of improving health and justice outcomes. Fourteen interviews were conducted in this study, with a total of seventeen study participants. Eleven interviewees were SMHSC participants, and six were support persons. Of the support persons, two were family members and four were employees of agencies

which support persons living in the community who require additional support with daily living activities.

6.1 Summary of Interview Findings

The experiences that participants and their support persons described in this study are consistent with existing literature in terms of the very high proportion of participants who have experienced trauma prior to entering the criminal justice system. Notably, SMHSC participants consistently volunteered information about their life experiences and identities to add context to their SMHSC experience, without being asked about them. This demonstrates that for participants, the context of their life is inseparable from how they experienced the SMHSC, and that there is a strong desire for them to be understood as unique individuals. By virtue of living with mental illness or an intellectual disability, they are a vulnerable population at a disadvantage when navigating the court system. This study demonstrates that the SMHSC, despite its good intentions, has many anti-therapeutic elements that provoke and exacerbate anxiety, and may re-traumatize this vulnerable population.

From the time that SMHSC participants enter the provincial court building, there are visual and procedural cues that remind them of the apparently insurmountable power imbalance between the justice system and the actors within it, and themselves. Examples of these cues include separate entrances for court staff, physical separation between court staff and court participants in the courtroom, and communication about participants that does not include them, both in private meetings, and in conversations that take place directly in front of them that are laden with legal jargon. The décor of the courtroom reinforces deference to a judicial system that has maintained many traditions and procedures from the time that Canada was a colony of England, which may be particularly disempowering to Indigenous peoples present in the

courtroom. These attributes are not unique to the SMHSC, and merit reconsideration for all court proceedings, however they may be of particular interest to address in a specialty court that aims to have therapeutic outcomes.

Participants in the SMHSC and their support persons did describe positive differences between the mainstream court and the SMHSC. Most of these differences were based in their relationships and interactions with court team members, such as noting that the judge appeared to be friendlier, and the tone that was set by the judge, lawyers, and other team members in the courtroom was more relaxed. By and large, the degree to which a participant or their support person described their experience as overall being positive or negative appeared to have a relationship with the degree to which they felt that the personhood of the SMHSC participant was acknowledged, through having a voice and any sense of influence over the process and outcomes, and recognizing their individual capabilities. Notably, the role of the prosecuting lawyer and the importance of being acknowledged and treated with respect by them stood out as much as the role of the presiding judge, perhaps because the prosecuting lawyer has traditionally been portrayed or viewed as a threatening opponent by defendants. Also of note was the consistent commentary that the Legal Aid defense lawyer appeared to have too large of a caseload to be able to perform their role and represent SMHSC participants to their best ability. Finally, other team member in the court were not mentioned very frequently, and there is great potential for their role to be expanded upon.

In terms of the SMHSC process, this study demonstrated that participants and support persons have a relatively poor understanding of what to expect from the time they are referred to the SMHSC, the implications of consenting to this alternate court stream, or the purpose of the many adjournments and longer time frame. The SMHSC participants and their support people

are not well engaged by the SMHSC process to develop conditions or promises, goals or interventions. Although they felt the promises and conditions imposed by the court were quite basic and fair, individual limitations and barriers to complying with them, such as low cognitive function, the power of addiction, and lack of services in the community that matched their specific needs were not perceived to be considered. There was also minimal support in actualizing the directions given by the SMHSC to participants. Overall, due to the difficulty in processing the 'unknown', and feelings of powerlessness and vulnerability in front of an audience, and barriers to complying with court direction, the experience was anxiety-provoking to various degrees for all people interviewed, regardless of whether they portrayed the experience as having overall very positive, or very negative impact on their lives. The anxiety described by SMHSC participants and their support people ranged from feeling "tense" to being "traumatized" by the court experience itself.

Despite the emotional and logistical difficulties of attending the SMHSC and adhering to the adjacent promises and conditions, all but two participants were able to identify positive impacts that resulted from it. Some participants stated that getting in trouble, and/or the looming threat of a severe sentence was what initially motivated them to seek treatment or re-engage with services they had previously accessed. Other motivating factors were positive interactions with SMHSC team members, or desires to have more involvement in their children's lives. For the five participants who described their outcomes as most beneficial to them, their experience was essentially categorized as a second chance, or an opportunity to get their life back on track. Areas that participants noted improvements in included physical health, stability in life, and personal relationships. One theme that emerged from participants who had both positive and negative

experiences was that once the court process was complete, they felt they had no clear next steps and felt uncertain or somewhat pessimistic about what their future held because of this.

Recommendations for the SMHSC that came from participants centered on ensuring those attending court understand the process more clearly, improving the court teams understanding of mental illness, treating participants as individuals by listening to their story, improving collaboration between the court team and court attendees, and creating a more relaxed and supportive environment. Support persons of both family and professional nature made statements that better solutions than the court system must be found to address behaviour related to mental health and intellectual disabilities.

6.2 Summary of Recommendations

The primary recommendation emerging from this study is to incorporate a trauma informed approach to all mental health courts due to the high prevalence of trauma in courtrooms, as well as what appeared to be a positive relationship between the described presence of trauma informed principles, and improved quality of the SMHSC participant experience. The relationship also applied to the absence of trauma informed principles resulting in a more negative description of the SMHSC court process, such as examples of a sense of powerlessness in face of the prosecuting lawyer who was perceived to be threatening exaggerated sentences, having a restricted or muted voice in the courtroom, and a lack of knowledge sharing that resulted in participants and participants not knowing if any given court appearance could result in arrest and detainment among many others. Findings from this study support a growing trend in the justice system to consider the traumatic experiences of both victims and defendants in courtroom proceedings and the justice process, not only in mental health courts, but in all settings. Some examples of how this could be done in the SMHSC

include creating intentional opportunities for participants and their support persons to speak in the courtroom, and to be involved in the development of their promises, and potentially conditions. They may also consider changing the physical layout and process to one that is more conducive to collaborative conversation and removes some of the more blatant symbols of hierarchy and unequal power dynamics, and represents concepts of citizenship and justice that extend beyond the current exclusively colonial symbols.

The second priority recommendation is for the Ministry of Justice to provide funding to hire a full time case manager with a healthcare background. Interview findings support that a registered nurse (RN) or registered psychiatric nurse (RPN) would be very well suited to this role, due to their mental health assessment skills, knowledge of medication management, counselling skills, philosophical foundations, and established community networks. A case manager position would alleviate some of the pressures on the supports persons who often felt they were responsible to fulfill a number of addition roles for the person they supported (e.g. booking appointments).

The third priority recommendation, specific to the SMHSC includes increasing involvement of healthcare professionals in screening and assessments, to improve identifying participants whose mental health and intellectual disabilities may not be apparent to legal professionals, but would be recognized by a professional with a mental health background. Participants whose challenges had not been diagnosed prior to their engagement in the SMHSC were identified as those who may have benefitted most from the new diagnoses and treatments which this process supported. Having a screening process that relied more heavily on a mental health assessment with a trauma component may also decrease the potential for referral biases.

Other recommendations include providing additional education and resources for the court team, participants, and support persons to better understand both mental health and legal concepts. Actively involving both family members and professional community support people would be beneficial when they are present and permission is given by the participant. Finally, increasing resources available to Legal Aid, specifically hiring more Legal Aid lawyers with the aim of reducing their caseload, would improve their ability to represent these complex clients more comprehensively.

In terms of direction for future research, there would be value in gathering more information about the prevalence of trauma in the adult population that is justice-involved, and how that trauma relates to their experiences in the courts. Documenting a trauma informed walk-through assessment, or performing a pilot study which included the involvement of a healthcare professional in the referral process may also provide valuable insights for other mental health courts. In terms of evaluating existing mental health courts, I argue that this research demonstrates that no evaluation of therapeutic courts is complete without speaking directly to the participants and their support persons to garner their perspectives. As these courts claim to have the participant interests in mind, proper processes cannot be developed without consulting them as they are the people who are most directly impacted by the process and outcomes.

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APPENDIX A - BEHAVIORAL ETHICS BOARD STUDY APPROVAL BEH #14-290

UNIVERSITY OF SASKATCHEWAN

Behavioural Research Ethics Board (Beh-REB)

Certificate of Approval Study Amendment

PRINCIPAL INVESTIGATOR	DEPARTMENT	Beh #
Steve Wormith	Psychology	14-290

INSTITUTION(S) WHERE RESEARCH WILL BE CARRIED OUT
Saskatoon Provinicial Court Building

STUDENT RESEARCHER(S)
Keith Barron, Carmen Dell, Courtney Florchinger, Krista Mathias

FUNDER(S)
INTERNALLY FUNDED

TITLE
Evaluation of the Saskatoon Mental Health Strategy Court (MHS Court)- Phase 2

APPROVAL OF	APPROVED ON	CURRENT EXPIRY DATE
Change to Recruitment Strategy Addition of Sub-Investigator Arlene Kent-Wilkinson Addition of masters of Nursing Student Research Carmen Dell Recruitment Poster Business Cards Revised Consent Form	25-Aug-2016	23-Aug-2017

Full Board Meeting ☐

Delegated Review ☒

CERTIFICATION
The University of Saskatchewan Behavioural Research Ethics Board has reviewed the above-named research project. The proposal was found to be acceptable on ethical grounds. The principal investigator has the responsibility for any other administrative or regulatory approvals that may pertain to this research project, and for ensuring that the authorized research is carried out according to the conditions outlined in the original protocol submitted for ethics review. This Certificate of Approval is valid for the above time period provided there is no change in experimental protocol or consent process or documents.

Any significant changes to your proposed method, or your consent and recruitment procedures should be reported to the Chair for Research Ethics Board consideration in advance of its implementation.

ONGOING REVIEW REQUIREMENTS
In order to receive annual renewal, a status report must be submitted to the REB Chair for Board consideration within one month prior to the current expiry date each year the study remains open, and upon study completion. Please refer to the following website for further instructions: *http://research.usask.ca/for-researchers/ethics/index.php*

Vivian Ramsden, Chair
University of Saskatchewan
Behavioural Research Ethics Board

Please send all correspondence to:

Research Ethics Office
University of Saskatchewan
Box 5000 RPO University, 1602-110 Gymnasium Place
Saskatoon SK S7N 4J8
Telephone: (306) 966-2975 Fax: (306) 966-2069

APPENDIX B - PARTICIPANT CONSENT FORM

UNIVERSITY OF SASKATCHEWAN
Centre for Forensic Behavioural Science and Justice Studies

MHS Client Interview Consent Form

Project Title: The Experience of Participants in the Mental Health Strategy Court in Saskatoon

You are invited to participate in an outcomes evaluation of the Saskatoon Mental Health Strategy Court. **Please read this form carefully.** Take as much time as you need, and feel free to ask any questions. If you are unhappy with anything please let the researcher know.

Researcher:

- Carmen Dell, Masters of Nursing Student, carmen.dell@usask.ca

Supervisors:

- Arlene Kent-Wilkinson, Nursing Associate Professor, University of Saskatchewan, 306-966-6897, arlene.kent@usask.ca
- Stephen Wormith (late), Director of the Centre for Forensic Behavioural Science and Justice Studies, University of Saskatchewan, 306-966-6818, s.wormith@usask.ca.
- Glen Luther, Law Professor, University of Saskatchewan, 306-966-5887, glen.luther@usask.ca.

What is the Saskatoon Mental Health Strategy Court?

- The Saskatoon Mental Health Strategy operates a criminal court for individuals with mental health conditions, such as yourself.
- The Mental Health Strategy Court attempts to resolve criminal charges in a casual way where everyone's voice is heard.

Why is this Evaluation taking Place?

- The Saskatoon Mental Health Strategy Court is new, and the people who run it want to know how successful it has been.
- We want to interview you to learn about your experience with the Mental Health Strategy Court, and how it might have impacted your life now.

What am I being asked to do?

- Go to an interview with the researchers to talk about your experience in the Mental Health Strategy Court and what happened afterwards.
- You do not have to answer any interview questions you do not want to.
- The researchers will take notes and record your answers during the interview.
- The researchers will record the interview. The recording will be destroyed once notes are checked to make sure they correctly noted what you said.

What are the possible risks or harms if I take part?
You may find some of the questions asked to be personal. You can skip any question you do not want to answer.

We will not be telling the Judge or lawyers involved in your case whether or not you are participating in this study. Your choice to participate or not will not have any influence over any court proceedings or the judge's decisions.

We will NOT ask about criminal history. **However, if you tell the researchers about any criminal activities that information could be requested by a Judge or Lawyer in the future**.

Your privacy will be protected by these steps:

- Your name will not be used in any reports and will not be identified in the interview
- All interviews will be identified with a code in order to not identify you
- Signed consent forms will be stored in a different location than your interview
- The information recorded from these interviews will be stored for five years. After that it will be destroyed.
- **Only people doing research will see your interview answers. These answers will not be given to anyone who runs or helps out at your Mental Health Strategy Court dates.**

What are the possible benefits if I take part?

- Some people like having the chance to share their story with researchers and say that it helps them reflect on their experiences in a helpful way
- The information you share may be used to improve the Mental Health Strategy court in Saskatoon and other mental health courts in other places
- You will receive a $20 gift certificate when you do the interview, and another $20 gift certificate after it is typed up if you choose to review it

Do I have to take part in the Evaluation?
You do not have to take part. Participating is your choice. You can quit at any time.

- If you do not take part, nothing you say during the interview will be used in the report.
- You can stop the interview at any time. If you decide you do not wish to continue just tell the researchers.
- You will not be punished in any way if you choose not to take part in the interview. You can still take part in the mental health strategy court.

Questions or Concerns:
If you have any questions please contact

- Carmen Dell, 306-240-0658, carmen.dell@usask.ca or
- Stephen Wormith, 306-966-6818, s.wormith@usask.ca; Glen Luther, glen.luther@usask.ca; Arlene Kent-Wilkinson, 306-966-6897, arlene.kent@usask.ca

This research project has been approved on ethical grounds by the University of Saskatchewan Research Ethics Board. Any questions regarding your rights as a participant may be addressed to that committee through the Research Ethics Office: ethics.office@usask.ca; 306-966-2975. Out of town participants may call toll free 1-888-966-2975.

Consent to Participate in Mental Health Strategy Court Evaluation:

- I have read and understood the information on this consent form.
- I have had the chance to ask questions about this evaluation.
- I have had all of my questions about the evaluation answered.
- I understand that I can quit the interview or evaluation at any time, without any penalty.
- By signing this form I consent to allow my information to be used for this evaluation.

- ***I grant permission to be audio taped:*** ***Yes: ___ No: ___***
- ***I would like the opportunity to review my transcripts*** ***Yes:___ No: ___***
- ***If the researcher is unable to contact me for a review, I grant them permission to use my interview as part of the study*** ***Yes:____ No: ____***

Signatures:

_____	_____	_____
Name of Participant	*Signature*	*Date*

_____	_____
Researcher's Signature	*Date*

Oral Consent:

I read and explained this Consent Form to the participant before receiving the participant's consent, and the participant had knowledge of its contents and appeared to understand it.

_____	_____	_____
Name of Participant	*Researcher's Signature*	*Date*

APPENDIX C - SUPPORT PERSON CONSENT FORM

UNIVERSITY OF SASKATCHEWAN
Centre for Forensic Behavioural Science and Justice Studies

MHS Support Person Interview Consent Form

Project Title: The Experience of Participants in the Mental Health Strategy Court in Saskatoon

You are invited to participate in an outcomes evaluation of the Saskatoon Mental Health Strategy Court. **Please read this form carefully.** Take as much time as you need, and feel free to ask any questions. If you are unhappy with anything please let the researcher know.

Researchers:

- Carmen Dell, Masters of Nursing Student, carmen.dell@usask.ca
- Krista Mathias, Postdoctoral Fellow in the Centre for Forensic Behavioural Science and Justice Studies, University of Saskatchewan, 306-966-6275, krista.mathias@usask.ca;

Supervisors:

- Arlene Kent-Wilkinson, Nursing Associate Professor, University of Saskatchewan, 306-966-6897, arlene.kent@usask.ca
- Stephen Wormith (late), Director of the Centre for Forensic Behavioural Science and Justice Studies, University of Saskatchewan, 306-966-6818, s.wormith@usask.ca.
- Glen Luther, Law Professor, University of Saskatchewan, 306-966-5887, glen.luther@usask.ca.

What is the Saskatoon Mental Health Strategy Court?

- The Saskatoon Mental Health Strategy operates a criminal court for individuals with mental health conditions, brain injuries, or cognitive challenges, such as the person you support
- The Mental Health Strategy Court attempts to resolve criminal charges in a casual way where everyone's voice is heard.

Why is this Evaluation taking Place?

- The Saskatoon Mental Health Strategy Court is new, and the people who run it want to know how successful it has been.
- We want to interview you to learn about your experience with the Mental Health Strategy Court, and how it might have impacted your life now.

What am I being asked to do?

- Go to an interview with the researchers to talk about your experience in the Mental Health Strategy Court and what happened afterwards.
- You do not have to answer any interview questions you do not want to.
- The researchers will take notes and record your answers during the interview.

- The researchers will record the interview. The recording will be destroyed once notes are checked to make sure they correctly noted what you said.

What are the possible risks or harms if I take part?

You may find some of the questions asked to be personal. You can skip any question you do not want to answer.

We will not be telling the Judge or lawyers involved in this case whether or not you are participating in this study. Your choice to participate or not will not have any influence over any court proceedings or the judge's decisions.

We will NOT ask about any criminal history. **However, if you tell the researchers about any criminal activities that information could be requested by a Judge or Lawyer in the future**.

Your privacy will be protected by these steps:

- Your name will not be used in any reports and will not be identified in the interview
- All interviews will be identified with a code in order to not identify you
- Signed consent forms will be stored in a different location than your interview
- The information recorded from these interviews will be stored for five years. After that it will be destroyed.
- **Only people doing research will see your interview answers. These answers will not be given to anyone who runs or helps out at your Mental Health Strategy Court dates.**

What are the possible benefits if I take part?

- Some people enjoy having the chance to share their story with researchers and say that it helps them reflect on their experiences in a helpful way
- The information you share may be used to improve the Mental Health Strategy court in Saskatoon and other mental health courts in other places
- You will receive a $20 gift certificate when you do the interview, and another $20 gift certificate after it is typed up if you choose to review it

Do I have to take part in the Evaluation?

You do not have to take part. Participating is your choice. You can quit at any time.

- If you do not take part, nothing you say during the interview will be used in the report.
- You can stop the interview at any time. If you decide you do not wish to continue just tell the researchers.
- You will not be punished in any way if you choose not to take part in the interview. You can still take part in the mental health strategy court.

Questions or Concerns:

If you have any questions please contact

- Carmen Dell, 306-204-0658, carmen.dell@usask.ca or

- Krista Mathias, 306-966-6275, krista.mathias@usask.ca; Stephen Wormith, 306-966-6818, s.wormith@usask.ca; Glen Luther, glen.luther@usask.ca; Arlene Kent-Wilkinson, 306-966-6897, arlene.kent@usask.ca

This research project has been approved on ethical grounds by the University of Saskatchewan Research Ethics Board. Any questions regarding your rights as a participant may be addressed to that committee through the Research Ethics Office: ethics.office@usask.ca; 306-966-2975. Out of town participants may call toll free 1-888-966-2975.

Consent to Participate in Mental Health Strategy Court Evaluation:

- I have read and understood the information on this consent form.
- I have had the chance to ask questions about this evaluation.
- I have had all of my questions about the evaluation answered.
- I understand that I can quit the interview or evaluation at any time, without any penalty.
- By signing this form I consent to allow my information to be used for this evaluation.

- ***I grant permission to be audio taped:*** ***Yes: ___ No: ___***
- ***I would like the opportunity to review my transcripts*** ***Yes:___ No: ___***
- ***If the researcher is unable to contact me for a review, I grant them permission to use my interview as part of the study*** ***Yes: ___ No:____***

Signatures:

_____	_____	_____
Name of Participant	*Signature*	*Date*

_____	_____
Researcher's Signature	*Date*

Oral Consent:

I read and explained this Consent Form to the participant before receiving the participant's consent, and the participant had knowledge of its contents and appeared to understand it.

_____	_____	_____
Name of Participant	*Researcher's Signature*	*Date*

APPENDIX D – RECRUITMENT POSTER

HAVE YOU BEEN TO THE SASKATOON MENTAL HEALTH STRATEGY COURT?

WOULD YOU LIKE TO TELL YOUR STORY?

Participants are needed for a study to learn about the experiences of people who went to the Mental Health Strategy Court

For more information, please contact:

Carmen Dell (Registered Nurse, MN Student)
Call or text: (306) 240 0658
Email: carmen.dell@usask.ca
OR
Dr. Arlene Kent-Wilkinson (Thesis Supervisor)
(306) 966 6897
Arlene.kent@usask.ca (email)

This study is a part of the larger Evaluation of the Mental Health Strategy Court Phase 2 being conducted by The Centre for Forensic Behavioural Science and Justice Studies

YOU CAN PARTICIPATE IF YOU ATTENDED THE MENTAL HEALTH STRATEGY COURT

THE INTERVIEW WILL BE CONFIDENTIAL, AND TAKE 30-45 MINUTES

YOU WILL GET A $20 GIFT CARD AT THE INTERVIEW *AND ANOTHER* $20 GIFT CARD AT THE SECOND SHORT INTERVIEW

HELP TO MAKE THE COURT BETTER BY TELLING US YOUR STORY

This study has been reviewed by, and received approval through the Research Ethics Office, University of Saskatchewan

UNIVERSITY OF SASKATCHEWAN

APPENDIX E – RECRUITMENT SUPPORT LETTER

Saskatoon Mental Health Strategy
Outcomes Study: Participant Experience

What are you being asked to do?
You are being asked to ask former Mental Health Strategy (MHS) court participants that you communicate with regularly if they would be willing to participate in an interview, and if they would allow you to share their contact information with me in order to arrange an interview. We would like them to give us feedback on their experience with the MHS court in Saskatoon. All interviewees will receive a $20 gift card for each interview that they do.

Do not discuss the study with clients if you feel that this would negatively interfere with your relationship with them or the current services you provide.

What is the purpose of this project?
This particular study aims to capture the experience of participants who have gone through the Mental Health Strategy Court in Saskatoon. It is one piece of a larger impact assessment being conducted on the Saskatoon Mental Health Strategy by the Centre for Forensic Behavioural Science and Justice Studies (CFBSJS) at the University of Saskatchewan. To date, despite many evaluations of other courts across North America being done, the voices of participants are markedly absent. The information gathered in this study will be used to improve the Mental Health Strategy Court in Saskatoon, and to inform the development and improvement of mental health courts in other jurisdictions.

Interviews will be conducted with participants and a support person of their choice. This may include a family member, friend, or care/service provider. They may still participate if they do not wish to identify a support person. Support persons will also be compensated with a $20 gift card.

If you have a person in mind who may be a suitable participant:
Please contact Carmen Dell, the student researcher, to arrange a brief orientation to the study. It is very important that potential participants receive consistent messaging about their participation in the study. In particular, they must be informed at every stage of recruitment that participation is voluntary, that they may leave at any point without negative consequences, and that their participation and the information shared in the interview will not be shared with anyone who is not directly involved in the study. Exceptions to this are if they spontaneously disclose details about criminal involvement, or express intent to harm themselves or others.

The researchers have obtained permission from the Saskatchewan Ministry of Justice, and the Ethics Review Board at the University of Saskatchewan to conduct this study. A consent form will be provided to everyone who agrees to be interviewed.

If you have any questions about the participant experience study, please contact:

Carmen Dell, RN, MN Candidate
Registered Nurse/ Interviewer
(306) 240-0658
carmen.dell@usask.ca

Arlene Kent-Wilkinson, RN, PhD
Thesis Supervisor
(306) 966-6897
arlene.kent@usask.ca

If you have any questions about the CFBSJS or the broader Saskatoon Mental Health Strategy Outcomes Study: please see the centre website at http://www.usask.ca/cfbsjs or contact: Stephen Wormith, PhD (CFBSJS Director) at (306) 966-6818 or email s.wormith@usask.ca

APPENDIX F – RECRUITMENT INFORMATION LETTER

UNIVERSITY OF SASKATCHEWAN
Centre for Forensic Behavioural Science and Justice Studies

Saskatoon Mental Health Court Study

What are you being asked to do?

You are being asked to share your experiences with the MHS Court in an interview. If you do an interview, you will get a $20 gift card to thank you for your time and for sharing your story.

Why are we doing this study?

We are doing interviews to learn more about what the Saskatoon Mental Health Court is doing well and what it can do better. Hearing your story will help us learn what your experience in the Mental Health Court was like and if anything should be done differently.

Who will be included in the interviews?

We will be interviewing people like you, the clients of the MHS Court, to hear what you have to say about your experiences. You can choose someone you are close to, like someone in your family, a friend, or a support worker to come to your interview if you are nervous or would like help. We may also ask to interview that person separately. They will also get a $20 gift card if they do an interview. If you don't choose anyone to come with you, you can still do the interview alone.

Participating in the study is completely voluntary, it is up to you. If you choose to be part of the study, or choose not to be part of the study, the person doing the interview will not tell anybody about your choice. Choosing to be part of the study or not will not change any of the services you receive, and it will not change the decisions of the judges or lawyers in your case if you have any current legal issues. No one except for the people doing the study will know if you are participating or not. You may quit at any time. What you talk about in the interview will not be shared with anyone who isn't part of the study unless you talk about a crime or if the interviewer is worried about your safety or someone else's safety.

More about the Mental Health Strategy Court and this study

The Saskatoon Mental Health Strategy began in November 2013. The Mental Health *Court* that happens every two weeks on Mondays is part of the Mental Health Strategy. The Centre for Forensic Behavioural Science and Justice Studies at the University of Saskatchewan has been asked to study the outcomes of the Mental Health Strategy court. This study will try to see if the Mental Health Strategy Court is meeting its goals.

We have received permission from the Saskatchewan Ministry of Justice and the University of Saskatchewan to conduct our interviews. A consent form will be provided to everyone who agrees to be interviewed with more information about the project. Everything that you say in an interview will be kept confidential and you will not be identified by name in any reports.

If you would like to participate in this study or if you have any questions, please contact:

Carmen Dell
Registered Nurse, MN Candidate
Call or text: (306) 240-0658
Email: carmen.dell@usask.ca

If you have any questions about the Centre for Forensic Behavioural Science and Justice Studies, please contact Steve Wormith at (306) 966 6818 or s.wormith@usask.ca

APPENDIX G - TELEPHONE RECRUITMENT SCRIPT

SASKATOON CRISIS INTERVENTION SERVICES SCRIPT

Hi (client's name), do you have a minute? My name is (name of SCIS representative). I am a member of Saskatoon Crisis Intervention Services, also known as SCIS. The Mental Health Strategy court is a court designed to connect people with support services in the community as part of the court process. The University of Saskatchewan is conducting a study to evaluate the experiences of people who have been through the Mental Health Strategy court, and the people who support them. I understand you went to the Mental Health Strategy court. Is it OK for me to continue?

If no: Thank you for your time.

If yes: On behalf of the University of Saskatchewan, we are approaching people who have been through the Mental Health Strategy court. There is nothing particular about you, personally, that made me ask you to participate. Would you be interested in participating in a 30-45 minute interview on your experiences with the program at a later date? A researcher would contact you to tell you more about the study and schedule a date, time, and location for the interview. Questions will be asked regarding your experience with the Mental Health Strategy court. You will **not** be asked about criminal history. A $20 gift card will be provided for your volunteered time.

If no: Thank you for your time.

If yes: A researcher working on the study will be in contact to schedule a time and place for the interview.

1) Do you need assistance from SCIS for getting to and from the interview?
2) Would you like a support person from SCIS present at the interview?

Thank you for your time.

Permission for U of S Contact: I explained the study to the participant before receiving permission, and the participant had knowledge of its contents and appeared to understand it.

_____	_____	_____
Name of Participant	*SCIS Representative's Signature*	*Date*

Contact info:

Carmen Dell, Student Researcher
Arlene Kent-Wilkinson, Supervisor
Carmen.dell@usask.ca
Arlene.kent@usask.ca
306 240 0658
306 966 6621

RESEARCHER'S SCRIPT

Hi (client's name), this is Carmen Dell and I am working on a study with the University of Saskatchewan, do you have a minute? I am following up on a call you received from (SCIS representative's name) with Saskatoon Crisis Intervention Services, and to see if you are still interested in participating in our study. Our study is evaluating the experiences of people who have gone through the Mental Health Strategy court. Is it OK for me to continue?

If no: thank the individual for their time

If yes: The study will be a 30-45 minute interview on your experiences with the Mental Health Strategy Court. Questions will be asked regarding your personal experiences with the Mental Health Strategy court. You will not be asked about your criminal history. You will receive a $20 gift card for your volunteered time.

- The interview will take place at Station 20 West (1120 - 20th Street West)
- Is there a day and time that will work best for you?
- Do you have any questions about the study?

The phone number for the research office at the University of Saskatchewan is 306-966-2687 in case you need to reach me before then. Thank you for your time.

Time: _____
Location:_____

Consent: I explained the study to the participant before receiving consent, and the participant had knowledge of its contents, appeared to understand the study, was able to stay on task, and was verbally fluent.

_____	_____	_____
Name of Participant	*Researcher's Signature*	*Date*

APPENDIX H - INTERVIEW GUIDE

Question: Tell me the story of your experience going through the Mental Health Strategy (MHS) court in Saskatoon (update Apr 24)

Optional Prompts:

- What was it like going through the MHS court?
    - How did you choose the MHS court instead of the regular court?
        - *Had you been to court before? Was it any different?*
    - How were you treated?
        - *How did you feel when you were there?*
        - *Did you understand everything that was going on with your case?*
    - Did anyone go to court with you or help you out?
    - Did you make any promises with the court?
        - Were the promises fair?
        - Were you able to keep them?
        - How much influence did you have over the promises or plan?
    - What were the most challenging parts?
    - What were the most helpful or rewarding parts?
    - **Was it an effective/helpful way to deal with the problems that brought you the court?**
        - how do you feel your mental health and involvement in justice are related?
        - Why or why not?
        - What could have worked better?

- Did the MHS court have any impact on you and your life?
    - Housing
    - Health and well-being (open/self-defined/holistic/alternative or traditional medicine or treatment)
    - Health (treatments and medication)
        - Any **new** connections to services or activities?
        - Drug or alcohol use
    - Encounters with law or justice system
    - Family, work or social life

- Is there anything you would change about the MHS court?
    - Was anything missing?
    - How would you make it better?

Was there anyone who supported you that may be willing to do an interview as well?

- Is there anything else you'd like to share or ask?

Interview Questions for Mental Health Strategy Court Participant Support Persons

Tell me what effect going through the Mental Health Strategy court had on (participant)?

- Did you attend court with ____?
- What was it like going through the MHS court?
    - Do you know why (participant) chose the MHS court instead of the regular court?
    - Did (participant) make any promises with the court?
        - Were they fair? Was (participant) able to keep them?
    - What were the most challenging parts?
    - What were the most helpful or rewarding parts?
    - Was it an effective way to deal with the problems that brought (participant) to them court? Why or why not?

- Did the MHS court have any impact on (participant)'s life? Your life?
    - Housing
    - Health and well-being (open/self-defined/holistic)
    - Health (treatment and medication)
    - Encounters with law or justice system
    - Family, work or social life

- Is there anything you would change about the MHS court?
    - Was anything missing?
    - How would you make it better?

- Is there anything else you'd like to share or ask?