



**Canadian Mental
Health Association**
Peel Dufferin
Mental health for all

**Association canadienne
pour la santé mentale**
Peel Dufferin
La santé mentale pour tous

NAVIGATING THE CRIMINAL JUSTICE & MENTAL HEALTH SYSTEMS

CRIMINAL JUSTICE SYSTEM

POLICE CONTACT

When the police are called or come into contact with a person having a mental health crisis, they respond according to the seriousness of the alleged offence as well as public safety.

Police may:

- Warn, arrest or charge a person for an alleged offence
- Take the person to hospital

ARREST/CHARGE BY POLICE

Police decide if they will charge a person based on the crime(s), public safety concerns and the Criminal Code* various factors will be taken into consideration. These considerations could include public safety and repetition of offense.

If the person is released they are given a date to go to court. Otherwise, the person is arrested and taken into custody. The police can either release the person at the police station or kept them in custody until they have a bail hearing.

MENTAL HEALTH SYSTEM

SUPPORTS

Support from family, the community, as well as support from the mental health and addictions programs, and having access to the social services (education, employment, health, housing, etc.), are key to preventing people from becoming involved with the criminal justice system.



EMERGENCY DEPARTMENT DIVERSION TREATMENT & CRISIS SUPPORT SERVICES

Depending on the level of the offence, an officer can refer a person to a pre-charge diversion program instead of laying a charge.

Police services also work with the local mobile crisis intervention teams, which include mental health workers and specially trained crisis police officers. These mobile crisis teams support individuals experiencing a mental health crisis.

Under Ontario's Mental Health Act, **Section 17, the police have the power to detain a person who is believed to be a risk to themselves or others and take the individual to the local hospital emergency department for a psychiatric assessment. Crisis bed programs in the community are also available to support individuals in crisis.

CRIMINAL JUSTICE SYSTEM

BAIL HEARING

At the bail hearing, the court may decide to release the person with conditions and/or a surety or the person may be remanded into custody at a detention centre or released with conditions requiring the individual to report to a bail program. Bail programs include bail verification, supervision, counselling, support and referral services.



COURT APPEARANCE

At the first court appearance the person will be given disclosure (their copy of the Crown's case) and their Crown screening form, which outlines the Crown's position on sentencing.

If the Crown believes that the person is appropriate, the screening form will give the option of going to Alternative Resolution Court. Individuals may also request to be considered for this court. Problem solving courts, like the Alternative Resolution Court, are specialized courts that link people to community-based treatment, counselling & services.

MENTAL HEALTH SYSTEM

POST-CHARGE DIVERSION

At any time after charges have been laid, Crown attorneys have the option not to prosecute and to send the person to connect with community supports and treatment instead. This is referred to as post-charge diversion (or pre-trial diversion or court diversion). An Alternative Resolution Court support worker then works with the accused person to develop a program that may include community support, supervision and/or treatment.

FITNESS OR NOT CRIMINALLY RESPONSIBLE ASSESSMENT OR TREATMENT ORDER

At any time in the court process, either side can raise the issue of "fitness to stand trial". A person is unfit to stand trial if they have a mental illness that prevents them from:

- *Understanding the nature or object of what happens in court*
- *Understanding the possible consequences of what happens in court*
- *Communicating with and instructing their lawyer*

The court will typically require a psychiatric or fitness assessment. If the person is found unfit, the judge may order them to receive treatment for up to 60 days in order to return them to a "fit" state. This is called a treatment order.

If the person is fit after treatment, they are returned to court. If the person is found "unfit to stand trial" and remains unfit even after treatment, a formal finding of "unfit to stand trial" is made and the case is transferred to the Ontario Review Board (ORB).

CRIMINAL JUSTICE SYSTEM

TRIAL

The person accused, is innocent until proven guilty. Every trial is unique, and can unfold in many ways. The person may be found not guilty and released without conditions, with any related bail terms ending. If the person is found guilty, or pleads guilty, they will be sentenced and any bail terms will remain in place until the sentencing.

SENTENCING

When a person is sentenced for a crime, there are many possible sentencing options, including being released on probation (i.e. conditional discharge), paying a fine, or remaining in custody:

- *For adults sentenced to less than two years, the sentence is served in the provincial jail system.*
- *If the sentence is two years or more, it is served in the federal jail system.*

RELEASE FROM CUSTODY

After completing their sentence, the person begins the process of reintegrating into the community to find work, go to school or take part in other programs. Planning for this often begins while the person is serving their sentence.

PROBATION/PAROLE

Community supervision is required for a person who has served a period of time in custody. A probation/parole officer will work with the person (and if appropriate with their family) to develop a plan to help meet their goals, lower their chance of re-offending, monitor compliance of court ordered conditions and may return the person to court for not following the conditions.

MENTAL HEALTH SYSTEM

UNFIT OR NOT CRIMINALLY RESPONSIBLE RULING

The accused person is transferred to the ORB if they are found to be not criminally responsible (NCR), which means that at the time of the act, they were incapable of knowing what they were doing and that it was wrong.

DISPOSITION

The ORB reviews each case annually and makes a decision, called a disposition, about whether to release the accused person with or without conditions or hold them in a psychiatric hospital. This decision is based on whether they believe the person is a risk to themselves, others or the community.

DISCHARGE PLANNING

When a person with a mental illness is released from hospital or a correctional institution, a discharge plan may be created. Mental health workers and the individual work together to follow the plan and reintegrate back into the community.

SUPPORTS

Support from family, the community, and having access to the social services and appropriate healthcare, are needed to support the reintegration of the person back into the community and prevent reoffending.

Occurance #:

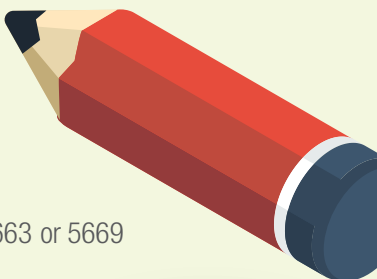
Date:

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