

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, 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

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.

Post Custody Enhancement Program

- Provides service enhancement to keep people with mental illness and/or addiction issues out of the criminal justice system
- Offers short-term case management services
- Provides assessments and referrals
- Provides discharge planning
- Assists with housing and financial supports
- Provides access to resources in home communities
- Connects with clients prior to release or upon release to facilitate access to appropriate community services
- Liaises with partners involved in the criminal justice system

Supports

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

Canadian Mental Health Association Kenora Branch

227 Second St. South (Second Floor),
Kenora, Ontario P9N 1G1

Navigating the criminal justice and mental health systems



Canadian Mental
Health Association
Kenora
Mental health for all

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:

- Take the individual to hospital
- Warn, arrest or charge the individual for an alleged offence
- Both

Arrest/Charge By Police

Police decide if they will charge a person based on the crime(s), public safety concerns and the Criminal Code. These and other various factors will be taken into consideration. If the person is arrested, they can be charged and released at the scene with a date to go to court. After arrest, they could also be taken to the police station, charged and released with a court date. Alternatively, after arrest and charged they could be kept in custody and held for a bail hearing.

Mental Health System

Supports

Support from family, the community, mental health and addictions programs and access to 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

Police services 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. Together, the mental health worker and police

work collaboratively to de-escalate crisis situations and connect individuals to appropriate supports and services at the time of their crisis .

Under Ontario's Mental Health Act, Section 17, 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 kept in 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 usually 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 the person is appropriate, the screening form will give the option for the individual to be a part of a pre-diversion program in the community or have their matters transferred to Mental Health Court if they are deemed appropriate. Screening for the Mental Health Court is done through the Mental Health Diversion/Court Support Program operated through CMHA Kenora .

Mental Health System

Mental Health Diversion/Court Support Program

This program helps individuals with a mental illness, acquired brain injury, developmental challenge and/or concurrent disorder involved with the criminal justice system. Assistance is given through a diversion process to access health or community services to prevent future encounters with the law. Support is received using a risk management approach.

This program partners with the District of Kenora Courts in screening clients who elect to have matters dealt with through the model of therapeutic jurisprudence which is known as the Mental Health Court.

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 not admitted to the hospital and there is a continued concern for potential safety, the police and/or Joint Mobile Crisis Team in the community are available to support individuals in crisis or obtain an admittance to the Safe Bed Program operated through CMHA Kenora.