

CRIMINAL CODE MENTAL DISORDER REVIEW BOARD

ACTIVITY PLAN 2011 – 2014

Message from the Chairperson

I am pleased to present the Activity Plan for the Criminal Code Mental Disorder Review Board which outlines the goals for the fiscal years April 1, 2011 to March 31, 2014. This plan was prepared under my direction and in accordance with the provisions of the *Transparency and Accountability Act*.

The Criminal Code Mental Disorder Review Board is classified as a Category 3 Government Entity and, as such, must prepare an activity plan taking into consideration the strategic direction of the Minister of Justice. Those strategic directions have been taken into account and it has been determined that none are applicable at this time.

As Chair of the Criminal Code Mental Disorder Review Board, I, on behalf of the entire Board accept accountability for the preparation of this plan and the achievement of its objectives.



M. R. REID
Chairperson

OVERVIEW

The *Criminal Code of Canada* contains specific provisions for the treatment by the Courts of persons with mental disorders who are accused of committing criminal offences. Where a mental disorder exists the law may excuse an individual's responsibility for committing criminal activity. In some cases individuals may be found unfit to stand trial while, in other cases, individuals may participate in a trial which results in findings that the individual was not criminally responsible for reasons of mental disorder. When the court makes such a finding the case comes under jurisdiction of the Review Board. The Review Board tracks the number of individuals it reviews on an annual basis, the dispositions rendered, and provides a report at the end of each fiscal year documenting how the Board has met its obligations.

The Review Board has been chaired by retired Chief Judge M. R. Reid of the Provincial Court of Newfoundland and Labrador, since February 1, 2006. Other current members of the Board include:

Dr. Martin W. Hogan, M.D., F.R.C.P.C., Psychiatrist
Dr. Michael Nurse, M. D., F.R.C. P.C., Psychiatrist
Dr. Kevin P. Hogan, M.D., F.R.C.P.C., Psychiatrist
Ms. Peggy Hatcher, RSW, BSW, Counselor/Consultant

The Board regularly meets at the Waterford Hospital site of Eastern Health in the City of St. John's. At the present time administrative assistance is provided to the Board by staff at the Office of the Royal Newfoundland Constabulary Public Complaints Commission and the Commissioner of Lobbyists Office. Assistance provided to the Board includes office administrative services, accounts payable, coordination of hearings and the general maintenance of individual case files including: court orders, Review Board orders, any psychiatric assessment reports and audio recordings of the Board's hearings.

Generally, the Review Board meets on average 11 or 12 times per year. As of March 31, 2011 there were forty-one individuals under the jurisdiction of the Review Board, six of whom were found unfit to stand trial while the remaining 35 were found not criminally responsible by reason of a mental disorder.

Where the Review Board makes a disposition it shall take into consideration the following factors: the need to protect the public from dangerous persons, the mental condition of the accused, the reintegration of the accused into society, and the other needs of the accused. The Board will then render one of the following dispositions that is the least onerous and least restrictive on the accused:

- Where a verdict of not criminally responsible on account of mental disorder has been rendered in respect of the accused and in the opinion of the Review Board the Accused is not a significant threat to the safety of the public, by order, direct the accused to be discharged absolutely;

- By order, direct that the accused be discharged subject to such conditions as the Review Board considers appropriate; or
- By order, direct that the accused be detained in custody in a hospital subject to such conditions as the Review Board considers appropriate.

MANDATE

Section 672.38(1) of the *Criminal Code* clearly sets out the mandate of the Mental Disorder Review Board. The *Criminal Code* states ...*a Review Board is established for each province to make or review dispositions concerning any accused in respect of whom a verdict of not criminally responsible by reason of a mental disorder or unfit to stand trial is rendered.* The Review Board is appointed by the Lieutenant Governor in Council and consists of not fewer than five members, at least one of whom is entitled to practice psychiatry, and where only one member is a psychiatrist, another member who is entitled to practice medicine or psychology. The Chairperson of the Board must be a Judge of the Federal Court or of a superior, district, or county court of a province, or a person who is qualified for appointment to, or has retired from, such office (Section 672.4(1)). The Board meets regularly to review the circumstances of those who have been remanded to custody within its jurisdiction. Each individual is entitled to an annual review and may be reviewed more often at the discretion of the Board or at the request of the individual, the crown or defence.

VALUES

The core values of the Criminal Code Mental Disorder Review Board provide a guiding framework for the members of the Board. These values are as follows:

- Ethical: each person performs his/her duties in an ethical and timely manner.
- Integrity: each person maintains the highest professional and ethical standards in dealing with those who come in contact with the Board.
- Impartiality and Fairness: each person deals fairly, respectfully and equitably with all individuals and organizations to protect the rights and interests of all parties.
- Accountability: each person is responsible to ensure his/her actions are in accordance with the provisions of the *Criminal Code* respecting Mental Disorders.
- Independence: each person maintains his/her independence when engaging in duties required by the provisions of the *Criminal Code* respecting Mental Disorders.

WHO WE SERVE

The Review Board serves the citizens of Newfoundland and Labrador by ensuring that the management of those individuals who are found unfit to stand trial or not criminally responsible by reason of mental disorder in accordance with the provisions of the *Criminal Code* and the *Charter of Rights and Freedoms*.

Moreover, the Review Board serves those individuals that stand accused of crime and are deemed unfit to stand trial or not criminally responsible by reason of a mental disorder by ensuring their circumstances are reviewed annually, or more often as requested, and making appropriate dispositions in accordance with each individual case and the relevant sections of the *Criminal Code*.

VISION

To facilitate the reintegration of those persons back into society, who are charged with a crime but are deemed unfit to stand trial, or not criminally responsible on account of an existing mental disorder, while maintaining public safety and encouraging the continued mental health of these individuals.

MISSION STATEMENT

It would be inappropriate for the Review Board, as a category 3 government entity, which performs a quasi-judicial function at arms length from Government, to adopt the Mission Statement of the Department of Justice. The Review Board has determined that it is not appropriate to develop its own mission statement at this time.

ISSUE

Meeting *Criminal Code* obligations.

The focus of the Mental Disorder Review Board will remain consistent over the three year planning cycle (2011/12, 2012/13 and 2013/14) which is: meeting *Criminal Code* obligations to ensure that mentally disordered individuals who are in conflict with the legal system do not languish in psychiatric facilities. The Board will make or review dispositions concerning any accused in respect of whom a verdict of not criminally responsible by reason of a mental disorder, or unfit to stand trial, is rendered on an annual basis and more often as deemed necessary. The Board's view and dispositions will consider the mental condition of the accused, the other needs of the accused, the feasibility of reintegration of the accused into society and the protection of the public from dangerous persons. By the end of each fiscal year, i.e. March 31, 2012/2013/2014 the Review Board will have submitted an annual report outlining how it has met its obligations as contained in the *Criminal Code*.

OBJECTIVE

To meet *Criminal Code* obligations concerning mentally disordered individuals who are in conflict with the law.

MEASURE

Criminal Code obligations are met.

INDICATORS

Review Board hearings will have been held:

- within 45 days, if there is no court disposition;
- within 90 days of a court disposition;
- within 12 months after a previous Board disposition;
- at the Board's discretion, or at the request of the accused, or a third party.