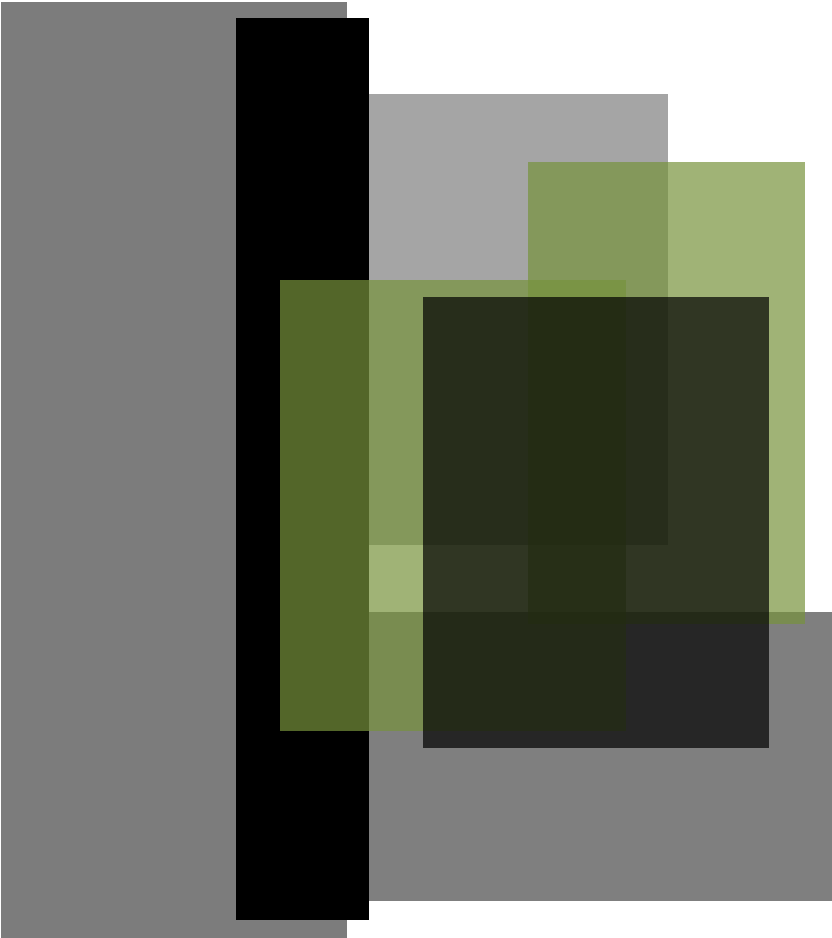


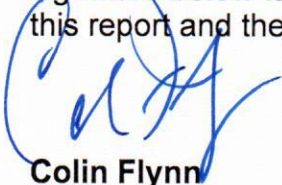
Criminal Code Mental Disorder Review Board
Annual Report 2021-22



Message from the Chair

In keeping with the requirements of a Category 3 Entity under the **Transparency and Accountability Act**, I am pleased to present the 2021-22 Annual Report for the Criminal Code Mental Disorder Review Board ("Review Board"). This report outlines the progress on the objectives identified in the 2020-23 Activity Plan.

This report was prepared under my direction and I acknowledge the efforts of all members of the Review Board in successfully carrying out the Review Board's mandate, pursuant to Part XX.1 (Mental Disorder) of the **Criminal Code of Canada**. The Review Board is responsible for reviewing and issuing dispositions related to the management of those individuals accused of committing a crime who have been found unfit to stand trial, or not criminally responsible by reason of a mental disorder. As Chair of the Review Board, my signature below is indicative of the Review Board's accountability for the preparation of this report and the results contained therein.



Colin Flynn
Chairperson

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Overview

The Criminal Code Mental Disorder Review Board (the Review Board) is responsible for reviewing and issuing dispositions related to the management of individuals accused of committing a crime who have been found unfit to stand trial, or not criminally responsible by reason of a mental disorder. The Review Board meets an average of 12 times per year to review and make dispositions on cases of persons who have been charged with offences but who have been found by the Courts to be not criminally responsible on account of a mental disorder or are unfit to stand trial on account of mental disorder.

In rendering dispositions, the Review Board is guided by the following factors: the need to protect the public from dangerous persons; the present mental condition of the accused; the reintegration of the accused into society; and any other needs of the accused. The range of dispositions available to the Review Board are as follows:

- Absolute discharge;
- Discharge with conditions; and
- Detention in hospital, with or without conditions.

On March 31, 2022, the Review Board consisted of the following members:

- Vacant, Chair;
- Ms. Peggy Hatcher, MSW, RSW, Counselor/Consultant;
- Mr. Randolph J. Piercey, QC, Alternate Chair;
- Mr. Joseph A. Woodrow, Alternate Chair;
- Ms. Catherine Allen-Westby, retired Judge;
- Dr. Erin L. O’Keefe, Psychiatrist;
- Dr. Michelle E. Sullivan, PhD;
- Ms. Kerry-Lynn Hayley, psychologist.

The Review Board welcomed four new members during 2021-22 who bring new skills and experience to the work of the Review Board. During 2021-22, the Review Board was chaired by Judge Gregory O. Brown. In February 2022, Judge Brown retired from the Review Board. He provided leadership and guidance as Chairperson for two years. The Review Board will work with partners in the Department of Justice and Public Safety and the Public Service Commission to identify and appoint a new Chairperson. The Review Board is provided administrative support by a part-time administrative assistant who is located at Suite 114, Villa Nova Plaza, 120 Conception Bay Highway in Conception Bay South.

Mandate

The mandate of the Review Board is contained in **Part XX.1 (Mental Disorder)** of the **Criminal Code of Canada**. The Board is responsible for reviewing and issuing dispositions related to the management of those individuals accused of committing a crime and who have been found unfit to stand trial, or not criminally responsible by reason of a mental disorder.

For those who are found not criminally responsible, the Board may choose one of three dispositions: an absolute discharge, a conditional discharge or detention, with or without conditions. For those found not fit to stand trial, the Board may impose a conditional discharge or hospital detention. The individuals are reviewed at least annually (or more frequently at the discretion of the Board or the request of the individual, the Crown, or the defence). If found at a later review to be fit to stand trial, the Board must order the return of the individual to court.

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.

Highlights and Partnerships

The Review Board works with the Department of Justice and Public Safety on certain matters such as the reporting requirements under the **Transparency and Accountability Act** and appointments of Review Board members.

Report on Performance

Issue 1: Meeting Criminal Code Obligations

Under the **Criminal Code of Canada**, the Board is responsible for reviewing and issuing dispositions related to the management of those individuals accused of committing a crime who have been found unfit to stand trial, or not criminally responsible by reason of a mental disorder. There is an obligation to annually review the remand arrangements and to conduct further reviews at the request of parties as defined in Part XX.1 of the **Criminal Code**, or as deemed necessary by the Review Board. The following objective and indicators will be reported on for each year of the 2020-2023 planning period.

Objective: By March 31, 2022, the Criminal Code Mental Disorder Review Board will have met **Criminal Code** obligations concerning mentally disordered individuals who are in conflict with the law.

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; or
- at the Review Board's discretion, or at the request of the accused, or a third party.

TABLE 1 - Categories of Cases

Indicators	Results
Hearings held within 45 days, if there is no court disposition (new files in reporting period)	5
Hearings held within 90 days of a court disposition	0
Cases discharged from board	3
Total No. of Active Cases as of March 31, 2022*	12

*As of April 1, 2022, there were twelve individual active cases. Twenty hearings were held in fiscal year 2020-21, i.e., some cases required more than one hearing within the reported timeframe. The Review Board received five new cases requiring a hearing.

At the start of 2021-22 there were 12 active cases carried over from 2020-21. Three cases were absolutely discharged during the fiscal year resulting in 9 active cases as of March 31, 2022.

TABLE 2 - Basis for Hearings

Indicators	Results
Early hearings held at Review Board's request	7
Early hearings held due to Breach of Review Board Order	0
Early hearings held at request of the accused	1
Hearings held at request of third party	0
Annual mandatory hearings	7
Hearings for new cases	5
Total No. of Hearings	20

Tables 1 and 2 refer to the same cases and show that during the past fiscal year the Review Board actually dealt with 12 individual cases, including the three cases that were discharged during 2021-22, which left 9 active cases remaining at the end of the fiscal year.

The information in Table 2 indicates that for the 12 cases the Review Board conducted a total of 20 hearings. Of those hearings, seven were mandatory annual hearings required by the **Criminal Code**, seven were initiated by the Review Board for the purpose of eliciting additional information or for reassessment, one was at the request of the accused, and five were hearings for new cases. The Review Board had no requests from third parties for hearings and no early hearings were held due to a Breach of Review Board Order. The data in Table 2 also indicates that all 20 hearings were conducted for these cases within the legislated timeframes.

Issue 2: Improving Openness and Transparency

The Review Board is committed to improving its openness and transparency by identifying and developing initiatives that increase public awareness and information related to the Board's work. This includes identifying and leveraging technology to build a more transparent and open process, including public awareness, notices of hearing dates and general information on the work of the Board. Further to this, the Review Board is committed to continuously improving

public facing information and rethinking how to efficiently and effectively fulfill the role of the Review Board.

Objective 2.2: By March 31, 2022, the Review Board will have implemented initiatives that improve openness and transparency.

Indicators	Results
<p>Developed and made available a new website for the Review Board.</p>	<p>During 2021-22, the Review Board did not complete the website. The Review Board was not in a position to approve the website content as the Chairperson retired. The Review Board did develop website content and a template for the website. This included content identifying Review Board members, mandate, a publications, page, Frequently Asked Questions, and links to the other Review Boards from across Canada, where those websites are available.</p> <p>The Review Board Chairperson, Judge Brown also contacted colleagues in the Department of Justice and Public Safety and the Office of the Information and Privacy Commissioner to discuss privacy considerations for providing hearing schedules and cases online. Through these consultations, it was determined that the content may require additional analysis before being included on the website. The Review Board anticipates continuing this work once the new Chairperson is in place.</p>

Objective 2.3: By March 31, 2023, the Review Board will have demonstrated enhancements to improve openness and transparency.

- Continued work to develop a website.

Opportunities and Challenges Ahead

During the fiscal year, Review Board activities continued at a high level. A number of the Review Board's clientele reside outside the St. John's area, thus it is increasingly necessary to adopt the use of video and teleconferencing technology. This continues to present a challenge as the Review Board strives to meet the needs of victims and families of its clients and accomplish its quest for meaningful participation in Review Board hearings.

In 2021-22, four new members were appointed to the Review Board, including psychiatrist Dr. Erin O'Keefe. Dr. O'Keefe's appointment is important as the **Criminal Code** mandates that at least one member of the board be entitled under the laws of the province to practice psychiatry and, where only one member is so entitled, at least one other member must have training and experience in the field of mental health, and be entitled under the laws of the province to practice medicine or psychology. A quorum of the Review Board is constituted by the chairperson, a member who is entitled under the laws of a province to practice psychiatry, and any other member. The retirement of Judge Brown as Chairperson, presents challenges for the Review Board in terms of meeting quorum. The Review Board is actively working with the Department of Justice and Public Safety and the Public Service Commission to have a new Chairperson in place in 2022-23.

Financial Statements

The budget of the Review Board is absorbed under the Professional Services Budget contained within the Administrative and Policy Support Activity of the Department of Justice and Public Safety. Thus, the Review Board is not required to provide a separate audited statement. While the Review Board does not appear as a separate item under the Estimates of the Program Expenditure and Revenue of the Consolidated Revenue Fund, the approximate expenditure is provided below.

In 2021-22, the Review Board met 10 times and a total of \$46,635.00 was expended.

	Actuals
Salaries	\$ 8,354.25
Transportation & Communication	\$ 114.23
Supplies	\$ 804.40
Professional Services	\$ 37,362.79
Property, Furnishings & Equipment	-
Total	\$ 46,635.67