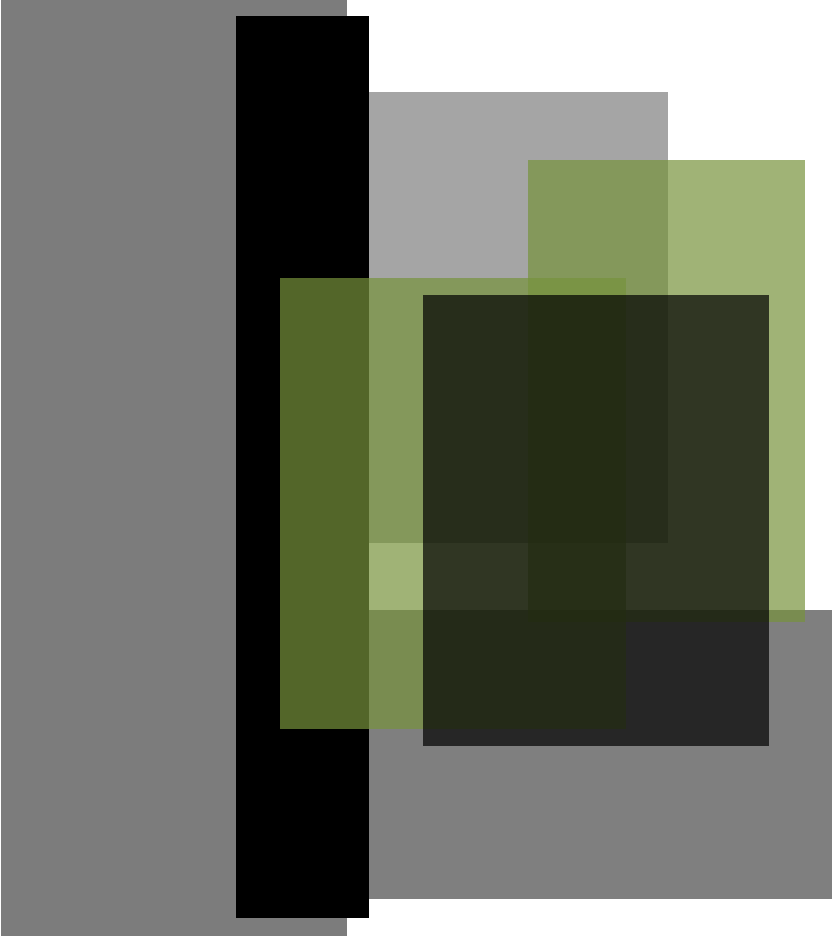


Criminal Code Mental Disorder Review Board
Annual Report 2022-23



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 2022-23 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 of Canada, R.S.C., 1985, c. C-46 (Criminal Code)** contains specific provisions which courts must follow when dealing with persons with mental disorders who are accused of committing criminal offences. In some cases, an individual may be found unfit to stand trial. Such persons cannot be prosecuted unless and until they become fit. In other cases, an individual may participate in a trial which results in a finding that the individual was not criminally responsible by reason of mental disorder. When a person is either found unfit to stand trial, or is found not criminally responsible on account of mental disorder, that person comes under the 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 Review Board has met its obligations.

The Review Board is chaired by retired Judge Colin Flynn of the Provincial Court of Newfoundland and Labrador. The members of the Review Board as of March 31, 2023 are as follows:

- Colin Flynn, Chairperson;
- Joseph A. Woodrow, Alternate Chair;
- Catherine Allen-Westby;
- Kerri-Lynn Hayley;
- Dr. Michelle Sullivan; and,
- Dr. Erin O'Keefe.

The Review Board meets at the Waterford Hospital site of Newfoundland and Labrador Health Services in the city of St. John's. Administrative assistance is provided to the Board by shared staff at the Office of the Royal Newfoundland Constabulary Public Complaints Commission and the Commissioner of Lobbyists Office, which is located in Conception Bay South.

Generally, the Review Board meets at least 12 times per year. As of March 31, 2023, there were 11 individuals under the jurisdiction of the Review Board.

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 may be characterized as follows:

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

Mandate

The mandate of the Review Board is contained in **Part XX.1 (Mental Disorder) of the Criminal Code**. The Board is responsible for making dispositions and reviewing such

dispositions of all persons under its jurisdiction at times determined by the provisions of the Criminal Code.

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 unfit to stand trial, the Board may impose a conditional discharge or hospital detention. All individuals are reviewed at least annually (or more frequently at the discretion of the Board or at the request of the individual, the Crown, or the defence). In the case of those individuals found by the Review Board to be fit to stand trial, the Board must order the return of the individual to court. The Review Board does not present separate Lines of Business as they are reflected in the Mandate.

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 are reported on for each year of the 2020-2023 planning period.

Objective: By March 31, 2023, 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)	6
Hearings held within 90 days of a court disposition	0
Cases discharged from board by absolute discharge or found fit	7
Total Number of Active Cases as of March 31, 2023*	11

*Twenty-one hearings were held in fiscal year 2022-23, i.e., some cases required more than one hearing within the reported timeframe.

At the start of 2022-23 the Review Board had 12 active cases. During 2022-23, the Review Board received six new cases. Five cases were absolutely discharged during the fiscal year, two of which were found fit to stand trial and returned to court, resulting in 11 active cases as of March 31, 2023. Some cases required more than one hearing within the reported timeframe.

TABLE 2 - Basis for Hearings

Indicators	Results
Early hearings held at Review Board's request	1
Early hearings held due to Breach of Review Board Order	1
Early hearings held at request of the accused	2
Hearings held at request of third party	1
Annual mandatory hearings	10
Hearings for new cases	6
Total Number of Hearings	21

Tables 1 and 2 refer to the same cases. The Review Board held 21 hearings. As stated some of the matters overlap and require more than one hearing. The information in Table 2 indicates that the Review Board conducted a total of 21 hearings. Of those hearings, 10 were mandatory annual hearings required by the **Criminal Code**, six were hearings of new cases, one was because of a breach of Review Board Order, two held at the request of the accused, and one held at the request of a third party. The data in Table 2 also indicates that all *hearings* were conducted for these cases within the legislated timeframes.

Issue 2: Improving Openness and Transparency

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

Indicators	Results
Continued work to develop a website.	During 2022-23, the Review Board developed 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.

Opportunities and Challenges

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 2022-23, a new Chairperson, retired Provincial Court Judge, Colin Flynn was appointed to the Review Board. There were two vacancies on the Review Board in 2022-23. 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. There is an opportunity for the Review Board to identify new members, in particular another psychiatrist, as there is currently only one serving on the Review Board. The Review Board will work with the Department of Justice and Public Safety and the Public Service Commission to fill vacancies in 2023-24 through the merit-based process.

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 2022-23, the Review Board met 11 times and a total of \$44,526.20 was expended.

	Actuals
Salaries	\$4,043.52
Transportation & Communication	\$1,107.40
Supplies	\$550.78
Professional Services	\$38,824.50
Property, Furnishings & Equipment	-
Total	\$44,526.20