

***CRIMINAL CODE MENTAL DISORDER REVIEW BOARD***

***ANNUAL ACTIVITY REPORT 2012-13***

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## Message from the Chair

I am pleased to present the 2012-13 Annual Activity Report for the Criminal Code Mental Disorder Review Board (hereinafter referred to as the Review Board) which outlines the progress on the objective identified in the 2011-14 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 mandate of the Review Board as contained in Part XX.1 Mental Disorder of the *Criminal Code of Canada*, R.S., 1985, c. C-46. 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 NL Review Board's accountability for the preparation of this report and the results contained therein.

I would like to take this opportunity to acknowledge three former members of the Review Board; the late Dr. Martin W. Hogan; Dr. Michael Nurse; and Dr. Kevin P. Hogan. My sincere condolences to the family of the late Dr. Martin W. Hogan, who served on the Review Board for over 30 years. I would also like to thank Dr. Michael Nurse for approximately ten years of service and Dr. Kevin P. Hogan for approximately nine years of service.



M. R. Reid, Chair  
NL Review Board

## **Overview**

The Criminal Code Mental Disorder Review Board (Review Board) is chaired by retired Chief Judge of the Provincial Court, M.R. Reid. The Review Board meets an average of 11 or 12 times per year to review and make dispositions on cases of persons who have been charged with offences but have been found by the Courts to be not criminally responsible on account of mental disorder or are unfit to stand trial on account of major mental illness.

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.

At the beginning of the 2012-13 fiscal year the Review Board consisted of the following members:

M.R. Reid (retired Chief Judge)  
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, MSW, RSW, Counselor/Consultant

During the reporting year, Review Board membership changed as a result of the passing of one member and the resignation of two others. The late Dr. Martin W. Hogan served on the Review Board for over 30 years, Dr. Michael Nurse served on the review board for approximately ten years and Dr. Kevin P. Hogan served for approximately nine years.

Effective October 29, 2012, the Review Board consisted of the following members:

M.R. Reid (retired Chief Judge)  
Dr. J. Neil Young, MD, Psychiatrist, Interim Clinical Chief,  
Mental Health & Addictions Program  
Dr. Christine Caravan, MD, F.R.C.P.  
Dr. John Angel, MD, F.R.C.P.C.  
Ms. Peggy Hatcher, MSW, RSW, Counselor/Consultant

The Review Board is provided administrative assistance by way of a part-time administrative assistant and is housed at the premises of the Royal Newfoundland Constabulary Public Complaints Commission.

## **Mandate**

The mandate of the Review Board is contained in Part XX.1 Mental Disorder of the *Criminal Code of Canada*, R.S., 1985, c. C-46. 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.

For those found unfit to stand trial, the Review Board may impose either:

- (a) a conditional discharge; or
- (b) detention in a forensic psychiatric facility.

For those who are found not criminally responsible, the Review Board may choose one of three dispositions:

- (a) an absolute discharge;
- (b) a conditional discharge; or
- (c) detention, with or without conditions.

All individuals are reviewed at least annually (or more frequently at the discretion of the Review Board or upon the request of the individual, the Crown, the Attorney General or the hospital). If persons who are designated unfit to stand trial are found at a later review to be fit, the Review Board is obligated to order return of those individuals to court for trial.

## **Vision**

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

## **Activities**

Issue 1: Meeting *Criminal Code of Canada* Obligations

The *Criminal Code of Canada* imposes an obligation on the Review Board to ensure that mentally disordered individuals who are in conflict with the legal system do not languish in psychiatric facilities. 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 Review Board will report on the following objective and indicators again in 2013-14, as per its 2011-14 Activity Plan.

**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 as follows (*see results in Table No. 1 and Table 2 below*):

- 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 NO. 1 – (*Indicates categories of cases*)**

INDICATORS	RESULTS
Hearings held within 45 days, if there is no court disposition	4
Hearings held within 90 days of a court disposition	0
Hearings held within 12 months after making a disposition	50
Cases discharged from board	8
Total No. of Active Cases as of March 31, 2013	39

*\*Note: There were 47 individuals on the caseload and 54 hearings held, i.e., some individuals had more than one hearing within the reporting timeframe. Eight cases were discharged during the fiscal year, which left an active caseload of 39 individuals.*

**TABLE NO. 2 – (*Indicates basis for hearings*)**

INDICATORS	RESULTS
Hearings held at Review Board’s discretion and/or within 12 months	18
Hearings held at request of the Accused	10
Hearings held at request of third party	0
Annual Mandatory Hearings	26
<b>Total No. of Hearings</b>	<b>54</b>

Tables 1 and 2 refer to the same cases and show that during the past year the Review Board actually dealt with a caseload of 47 comprised of the eight cases discharged from

our jurisdiction and the 39 active cases remaining at the end of the fiscal year. The data in Table 1 also indicates that 54 hearings were conducted within the timeframes set by law.

The information in Table 2 indicates that, for the 47 cases, the Review Board conducted a total of 54 hearings. Of those 54 hearings, 26 were mandatory hearings required by the *Criminal Code*; 18 were initiated by the Review Board for the purpose of eliciting additional information or for re-assessment, and 10 were conducted at the request of the Accused.

The Review Board had no requests from third parties for hearings during the past year.

### **Opportunities and Challenges Ahead**

During the year, Review Board activities continued at a high level with increasing numbers of clientele opting to reside outside the metropolitan St. John's area thus engaging increased use of video and teleconferencing processes. This continues to present a challenge as the Review Board strives to meet the needs of victims and families of its clientele in their quest for meaningful participation in Review Board hearings.

The Review Board and Eastern Health continue to meet on a cooperative basis to ensure that our mutual mandate, to provide for the safety of the community and the needs of mentally ill offenders, is carried out.

### **Financial Statements**

The budget of the Review Board is contained in the Professional Services Budget of the Department of Justice and, 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 budget is provided below.

<b>Approximate Budget NL Review Board</b>	
In 2012-13, the Review Board met 12 times and a total of \$70,909.00 was expended.	
Professional Services	\$68,866.00
Other Operating Costs	\$ 2,043.00
<b>Total</b>	<b>\$70,900.00</b>