

CRIMINAL CODE MENTAL DISORDER REVIEW BOARD

ANNUAL ACTIVITY REPORT 2011-12

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Message from the Chair

I am pleased to present the 2011-2012 Annual Activity Report for the Criminal Code Mental Disorder Review Board (NL 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 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 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 Criminal Code Mental Disorder Review Board, my signature below is indicative of the Board's accountability for the preparation of this report and the results contained therein.



M. R. Reid, Chair
NL Review Board

Overview

The Criminal Code Mental Disorder Review Board (NL Review Board) is chaired by the retired Chief Judge of the Provincial Court, M.R. Reid. The Board meets on 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 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 Board may be characterized as follows:

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

Members of the Board for 2010/2011 were:

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, Counsellor/Consultant

The 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 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 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 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 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 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 Criminal Code Mental Disorder 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 Board. The Review Board will report on the following objective and indicators again in 2012-13 and 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 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;
- at the 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	8
Hearings held within 90 days of a court disposition	0
Hearings held within 12 months after making a disposition	54
Cases discharged from Board	5
Total No. of Active Cases	44

**Note: There were 49 individuals on the caseload and 62 hearings held, i.e., some individuals had more than one hearing within the reporting timeframe. Five cases were discharged during the fiscal year, which left an active caseload of 44 individuals.*

TABLE NO. 2 – (Indicates basis for hearings)

INDICATORS	RESULTS
Hearings held at Board's discretion and/or within 12 months	40
Hearings held at request of the Accused	22
Hearings held at request of third party	0
Total No. of Hearings	62

Tables 1 and 2 refer to the same cases and show that during the past year the Board actually dealt with a caseload of 49 comprised of the five cases discharged from our jurisdiction and the 44 active cases remaining at the end of the fiscal year. The data in Table 1 also indicates that 62 hearings were conducted within the timeframes set by law.

The information in Table 2 indicates that for the 49 cases the Board conducted a total of 62 hearings. Of those 62 hearings, 40 were either mandatory hearings required by the *Criminal Code* or were initiated by the Board for the purpose of eliciting additional information or for re-assessment, 22 were conducted at the request of the Accused.

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

Opportunities and Challenges Ahead

Activities of the Board are continuing to increase as more victims of crime and families of review subjects insist on participation in the review process, particularly by way of electronic appearances.

In this time of public emphasis and enlightenment of mental illness, long-term confinement to hospital is not favored where community-based services will suffice.

Challenges for the Board arising out of those phenomena are two-fold.

In that ensuring security of the public is the Board's primary obligation, restrictions on the liberty of most clientele will be necessary for varying periods of time while they are in need of acute care and intervention to overcome psychotic behaviour and to stabilize mental illness.

Upon accomplishment of stability, the challenge is to find services in the community that allows for the reintegration of clientele into the community. This is often difficult in remote areas in particular.

In an effort to deal with this challenge the Board and Eastern Health has already availed of an opportunity to engage in formal dialogue to try and ensure that client services, at least those already in existence are best utilized. A meeting for such purpose was held on March 28, 2012 and both parties agreed to continue our liaison on a semi-annual basis.

The Board also joins with Eastern Health in looking forward to improved physical facilities for the forensic unit of the Waterford Hospital as an opportunity to improve services for our clientele.

Financial Statements

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

Approximate Budget NL Review Board	
In 2011-12 the Board met 12 times and a total of \$106,355.59 was expended.	
Professional Services	\$104,250.39
Other Operating Costs	\$2,105.20
Total	\$106,355.59