

CRIMINAL CODE MENTAL DISORDER REVIEW BOARD
ACTIVITY PLAN 2008-2011

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 2008/2011 fiscal years. 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 directions 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 goals and objectives.



Chief Judge M. R. Reid
Provincial Court of Newfoundland and Labrador

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 a criminal offence. 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 a finding 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 the Chief Judge M. Reid of the Provincial Court of Newfoundland and Labrador, since February 1, 2006. Other current members of the Board include:

Judge J.A. Woodrow
Dr. Martin W.Hogan, M.D., F.R.C.P.C., Psychiatrist
Dr. Micheal Nurse, M.D., F.R.C.P.C., Psychiatrist
Dr. Kevin P. Hogan, M.D., F.R.C.P.C., Psychiatrist
Ms Peggy Hatcher, EAP Coordinator, Public Service Commission, Government of Newfoundland and Labrador

The Review Board usually 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 the office of the Chief Judge which includes the maintenance of individual case files including: court orders, Review Board orders, any psychiatric assessment reports and audio recordings of the Board hearings.

Generally, the Review Board meets once a month, or more often, if required. For instance, during 2007/08 the Board met 15 times. Currently, there are 41 individuals who fall under the jurisdiction of the Review Board, nine of whom were found unfit to stand trial, and the remainder (32) were found not criminally responsible by reason of a mental disorder. In 2007/08 there were 11 new cases for the Board to review.

Where a Review Board makes a disposition it shall take into consideration 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 a 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 that the accused 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 of Canada clearly sets out the mandate of the Mental Disorder Review Board that is *...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 Chair 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 their jurisdiction. Each individual is entitled to an annual review and may be reviewed more often at 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 their 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 their actions are in accordance with the provisions of the *Criminal Code* respecting Mental Disorders.

Independence: each person maintains their 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 not fit to stand trial or not criminally

responsible by reason of a mental disorder in accordance with the provisions of the *Criminal Code of Canada* and the *Charter of Rights and Freedoms*.

In addition, 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 were charged with a crime but were 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. Nor has the Review Board chosen to adopt its own mission statement at this time. The Review Board may over the duration of this multi-year plan (2008-2011) decide to give further consideration to developing its own mission statement.

Issue

Meeting *Criminal Code of Canada* Obligations

The focus of the Mental Disorder Review Board will remain consistent over the three year planning cycle (2008/09, 2009/10 and 2010/11) 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 required. The Board's review 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 (2008/09, 2009/10, 2010/11) the Review Board will have submitted an annual report outlining how it has met its obligations as contained in the *Criminal Code of Canada*

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

Measure: Code Obligations are met .

Indicators:

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