

THE REVIEW PROCESS

Hearings of the **BCRB** are conducted by panels consisting of a lawyer or a judge, a psychiatrist and one other member.



Parties at a **BCRB** hearing include the accused, the accused's counsel, a representative of the Attorney General (Crown Counsel) and a representative of BC's Youth or Adult Forensic Psychiatric Services systems and their counsel.



In making a disposition the **BCRB** receives evidence about the crime, the accused's criminal, psychiatric and social history, and may hear from witnesses and victims.



Hearings of the **BCRB** are open to the public except in certain circumstances. The accused's psychiatric information may be kept confidential.



Accused persons have the right to be represented by legal counsel at hearings of the **BCRB**.



The Legal Services Society may provide legal representation to accused persons, either through the **Mental Health Law Program** or from the private bar. The **BCRB** can appoint counsel for the accused where the interests of justice require.



An accused or another party may ask the **BCRB** to hold a hearing to review a person's status at any time.



Victims May:

- Request notice of **BCRB** hearings
- Attend **BCRB** hearings
- Submit a Victim Impact Statement (M.I.S.) for consideration by the **BCRB** when it makes a decision

BRITISH COLUMBIA REVIEW BOARD

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Mental Health Law Program (MHLP)

1-604-685-3425

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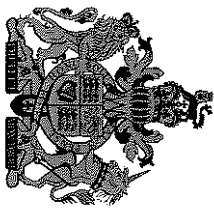
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BRITISH COLUMBIA
REVIEW BOARD

*Safeguarding the rights and
interests of mentally disordered
accused persons and of
society with fairness and dignity.*

THE BRITISH COLUMBIA REVIEW BOARD AND MENTALLY DISORDERED ACCUSED PERSONS



INTRODUCTION TO THE BC REVIEW BOARD (BCRB)

The **British Columbia Review Board (BCRB)** is an independent adjudicative tribunal established under the Criminal Code of Canada.

The **BCRB's** mandate is to protect public safety while safeguarding the rights and freedoms of mentally disordered persons accused of committing a criminal offence.

The **BCRB** makes and reviews dispositions (orders) regarding accused persons who have been found "**unfit to stand trial**" or "**not criminally responsible**", because they suffer from a **mental disorder**.

An accused persons mental illness can affect how his/her trial is handled by the Courts in two key ways:

If evidence establishes that the accused committed the offence but lacked the required intent because of a mental disorder, the court can make a verdict that the accused was **not criminally responsible on account of mental disorder (NCRMD)**.

If evidence establishes that an accused is **unable to:**

- understand the nature or object of the proceedings,
- understand the possible consequences of the proceedings, or communicate with counsel,

the court may find that the accused is **unfit to stand trial (UST)**.

UNFIT TO STAND TRIAL (UST)

Persons accused of committing crimes are presumed to be **mentally fit to stand trial**, that is:

- **to understand the nature or object of the Court process**
- **to understand the possible consequences**
- **to be able to communicate with counsel.**

A Court may order a psychiatric assessment to assist in determining the accused's mental capacity to stand trial.

When a Court finds an accused mentally **unfit to stand trial**, the accused comes under the jurisdiction of the **BCRB**.

The **BCRB** must hold a hearing to further assess the accused's fitness to stand trial and to make a disposition (order) within either 45 to 90 days of the court's verdict.

In making a disposition the **BCRB** must form an opinion about the accused's fitness to stand trial, and must consider:

- 1) **The protection of the public (whether the accused is dangerous)**
- 2) **The accused's mental condition**
- 3) **The reintegration of the accused into society**
- 4) **The accused's other needs.**

In a "fitness" case only two dispositions are available:

- 1) **That the accused be held in custody**
- 2) **That the accused be discharged on conditions, i.e. the accused is released with restrictions on his or her freedom.**

If the **BCRB** determines that the accused is fit to stand trial, the accused is returned to **court**. The Court will once more try the issue of fitness and then render a verdict.

NOT CRIMINALLY RESPONSIBLE ON ACCOUNT OF MENTAL DISORDER (NCRMD)

A Court may make a verdict of **NCRMD** if it is satisfied that an accused person:

- 1) **Committed a criminal offence; and**
- 2) **Was unable to appreciate the nature or quality of the act or of knowing it was wrong because of a mental disorder.**

A verdict of **NCRMD** is an alternative to a verdict of acquittal or guilty.

After a person is found **NCRMD**, the **BCRB** must hold a hearing within either 45 or 90 days, and make an appropriate disposition (order).

In making a disposition, the **BCRB** hears evidence from the Director of Forensic Psychiatric Services, the accused and the Crown, and must consider:

- 1) **The protection of the public (whether the accused is dangerous)**
- 2) **The accused's mental condition**
- 3) **The reintegration of the accused into society**
- 4) **The accused's other needs.**

A disposition (order) of the **BCRB** may consist of:

- 1) **An absolute discharge (similar to a pardon)**
- 2) **A conditional discharge (e.g. supervision/counseling/prohibition against alcohol, drugs or weapons)**
- 3) **Custody or detention in a designated psychiatric hospital, such as the Forensic Psychiatric Hospital, or Maples Adolescent Treatment Centre (for youth).**

An accused who is not absolutely discharged is entitled to a hearing every year to reassess whether the person poses a significant threat to the public and, if so, to determine what restrictions or conditions should be imposed.

Conditions imposed by the **BCRB** are enforceable in the same manner as a probation order, failure to comply may result in arrest without warrant, and detention.

