Indexed as:

Dixon (Re)

IN THE MATTER OF Part XX.1 (Mental Disorder) of the Criminal Code R.S.C. 1985 c. C-46, as amended 1991, c. C-43
AND IN THE MATTER OF the Disposition Hearing of
Lance Everett Dixon

[1998] B.C.R.B.D. No. 2

British Columbia Review Board
E. Tollefson, Alternate Chairperson, G. Laws and
F. Falzon, Members

March 9, 1998.
(35 paras.)

Appearances:

Lance Everett Dixon, accused/patient.
C. Tyhurst, counsel for the accused/patient.
Dr. R. Miller, psychiatrist, and H. Vollert, Community Mental Health Nurse, for the Director, Adult Forensic Psychiatric Services.
No one appeared for the Attorney General.

REASONS FOR DISPOSITION

¶ 1 CHAIRPERSON:-- On March 9, 1998, the British Columbia Review Board ("the Review Board") held a mandatory hearing and made a disposition in respect of Lance Everett Dixon ("the accused"). The hearing was held in the presence of the accused; Ms. C. Tyhurst (counsel for the accused); and Dr. R. Miller, psychiatrist, and Mr. H. Vollert, Community Mental Health Nurse (representatives of the Director, Adult Forensic Psychiatric Services ("the Director")). Mr. L. Hillaby (counsel for the Attorney General of British Columbia) wrote to the Review Board, saying that there would be no representation from the Attorney General at the hearing, but indicating that no adjournment was being requested. The Review Board members hearing the case, E. Tollefson (Alternate Chairperson), Dr. G. Laws (Psychiatrist) and F. Falzon (Lawyer), were unanimous in making a disposition order under section 672.54(b) of the Criminal Code that the accused be discharged subject to conditions. The Review Board gave a summary set of reasons, but it indicated that fuller reasons, including guidelines to assist the Clinic in dealing with breaches of condition, would be prepared and distributed later.

Background

Criminal History

¶ 2 The index offence occurred November 27, 1996 in Saanich, British Columbia. The police received a 911 call from an unidentified male, saying that he was going "to kill a cop" and asking that they "get someone to Quadra and Inverness". The call originated from the Dixon residence at 1040 Inverness Road, an address the police had attended seven times since October 1, 1996 for emergency or mental health situations. The police found the accused a few minutes later in the 1000 block of Inverness Road. He was extremely aggressive and self-destructive, repeatedly holding a knife to his own throat or chest, screaming that he wanted to die. He then threw a knife toward the police and advanced on them, demanding whether they would shoot him if he did not stop. There was a standoff, and eventually when he began to advance again with a knife, he was overpowered by the police. He was charged with Possession of a Weapon for a purpose dangerous to the public, contrary to s. 87 of the Criminal Code, and on April 4, 1997, on the basis of admissions of fact plus a letter from Dr. R. Miller (psychiatrist), was found by the Honourable Judge Hubbard of the Provincial Court of British Columbia in Victoria to be not criminally responsible on account of mental disorder, with disposition being deferred to the British Columbia Review Board ("the Review Board"). (Exhibits 2, 3 and 4)

¶ 3 The accused, who was born February 24, 1969, has a criminal record in Youth Court in 1984 for Breaking, Entering and Theft, contrary to s. 306(1)(B) of the Criminal Code, and in adult court, in the period December, 1989 to October, 1993 for two Theft type offences contrary to ss. 334(A) and 348(1) and three Driving offences contrary to ss. 253(B), 253(A) and 249(1)(A). (Exhibit 5)

Social and Psychiatric History

¶ 4 The evidence indicates that the accused had no birth or childhood problems, and he did well in school. His father was an alcoholic, who had problems with the police. His parents separated when he was 8 years old. In his last year of elementary school, he became withdrawn and depressed following the death of a girl friend in an accident. Six months later he climbed to the top of a tall tree, threatening to jump and kill himself. In junior high school, he started to drink and to smoke marihuana, and he became involved in various forms of anti-social activity, including Breaking and Entering and Auto Theft. A friend who was involved in the auto theft was subsequently killed when the car in which he was joyriding was involved in a high-speed chase with the police. He blamed the police for the death of his friend. At age 14 he reportedly was banned from school, and for the next couple of years, until he dropped out, he attended alternate schools. He has never had a job. (Exhibit 7)

¶ 5 In a forensic assessment in 1989, Dr. S. Lohrasbe wrote that the accused showed a tendency towards impulsive aggression and suicidality plus alcohol and multiple drug abuse. He had been involved in a commandeering a taxicab at gun-point. He told the driver about his friend who had been killed in the police chase and said that it was his intention to take the cab and "to go off the Malahat" or something like that "to show the Police" (exhibit 7).

¶ 6 He has continued to consume alcohol and to smoke marihuana on a regular basis. He has also used heroin and cocaine but not regularly. He reported that on the day of the index offence he had been drinking heavily, as he had had an argument with his common-law wife. He phoned the police and took a couple of knives, for he wanted the police to kill him. He claimed lack of memory of the event. Dr. Miller's diagnosis of his mental state at the time was Post Traumatic Stress Disorder, Chronic Mood Disorder, chronic substance and alcohol abuse, plus Anti-Social Personality Disorder. He did not have any psychotic illness. Dr. Miller expressed the opinion that his memory loss was attributable to a combination of underlying mental state and the effects of alcohol, and recommended a finding of not criminally responsible on account of mental disorder (exhibit 7).

¶ 7 In a letter to Dr. D. Eaves, shortly after the NCRMD verdict (exhibit 8), Dr. Miller wrote that the accused suffered from a serious impairment of functioning from alcohol and drug use; a mental disorder primarily of anxiety and mood; and an anti-social personality disorder.

¶ 8 In May, 1997, the accused was granted a conditional discharge by the Review Board. In light of his chronic daily use of marihuana, and the stress he was under at the time (particularly arising from the forthcoming birth of twins to his common-law wife) the majority of the Review Board panel declined to insist upon him stopping his use of marihuana cold-turkey. The Review Board ordered that another hearing be held (by telephone conference) within four months to re-examine the marihuana use issue. The hearing by telephone conference was not able to proceed as envisaged, so another short order was made and a viva voce hearing was held in October. At the October 23 hearing, the Review Board heard evidence that the accused had dropped out of an alcohol counselling or treatment program that had been arranged for him after two sessions. He said that he was currently not using alcohol, so he did not have a problem and did not need the course. The treatment with antidepressant medication designed to alleviate anxiety and help him withdraw from marihuana had caused him serious side-effects in the form of nausea, and it had had to be discontinued. New medication prescribed was somewhat helpful with respect to his anxiety but also had side-effects. When psychotherapy was begun to deal with his anxiety, he refused to practice the stress reduction techniques associated with it; and he attended only two of seven psychotherapy sessions arranged with therapist, Cynthia Mills. Overall, the Board found that the accused's central issue was one of insight and motivation, and nowhere was this more obvious than with respect to his use of marihuana. The Board found that he was unequivocal that he would continue, or resume, smoking marihuana once any prohibition by the Board against its use is terminated. Its policy of gradually weaning the accused off marihuana having failed, the Review Board imposed a clear prohibition on its use in its disposition of October 23, 1997. (See Reasons for Disposition, May 16 and October 23, 1997, exhibits 10 and 14.)

¶ 9 Despite the clear order of the Review Board in its disposition of October 23, 1997, the accused continued to smoke marihuana, openly admitting same to Mr. Vollert of the Forensic Outpatient Clinic. Accordingly he was taken before the court, which found him to be in breach of disposition, January 29, 1998 (exhibits 16, 17 and 18), which triggered the present mandatory hearing. Earlier (November 15, 1997) he had been found to be in breach of the prohibition against consumption of alcohol: in this case he had called the police himself as he was afraid that he might lose control (exhibits 15 and 19).

¶ 10 In a letter dated February 18, 1998 to Dr. Miller (exhibit 19), Mr. H. Vollert reported that little had changed for Mr. Dixon since the last hearing. He was still unemployed and was not attending any programs, saying that he found it difficult to attend because of lack of transportation. Cynthia Mills had terminated her involvement with the accused on January 9 because he had missed too many appointments. The accused said that he was still smoking marihuana, and his common-law wife, his mother and all of his friends are regular users. The accused offered to stop reporting his use of marihuana if not breaching him would get Mr. Vollert into trouble -- an offer rejected by Mr. Vollert, who suggested that this question be left to the Review Board to decide.

¶ 11 In a report dated March 2, 1998 to Dr. D. Eaves (exhibit 20), Dr. R. Miller reviewed developments since the last disposition hearing. Mr. Dixon had stopped taking the medication prescribed to counteract his anxiety symptoms, but this was not a problem as he did not appear to have any significant anxiety at the moment. Mr. Dixon said he was feeling more energetic and sleeping better now, and wondered whether it might have something to do with the fact that he had reduced his use of marihuana over the last six months. Commenting on a literature search he had done, Dr. Miller wrote (at p. 5) there was general agreement that there was some association between marihuana use and violence; although it could not be said to be a direct, causative relationship. His concluded that marihuana usage of itself in an individual who is not otherwise predisposed to anti social behaviour, alcohol abuse or impulsive violence may have relatively small effect on predisposition to violence; however, given the co-occurrence of these factors in Mr. Dixon's case, "continued marihuana usage must be seen as adding to the risk of violence."

Evidence given at the hearing

¶ 12 In reply to questions, Dr. Miller gave evidence that at the present time Mr. Dixon experienced marihuana dependence, periodic anxiety and anti-social personality disorder. His alcohol dependence was in remission, and his use of drugs other than marihuana was limited. (At this point in the hearing, Mr. Dixon interjected that he had used cocaine and heroin each twice as a juvenile.) Post-traumatic stress disorder was no longer present. He was uncooperative in relation to treatment. He says he has reduced his use of marihuana, but it is not possible to quantify the amount with the screening tests that the Clinic is using -- blood tests would be required for this purpose. The disposition requires his attendance at the Clinic at least once every two weeks, but he often has difficulty attending appointments because of transportation problems to Victoria from his home in Langford, for he gets nausea if he takes the bus. When asked about Mr. Dixon's level of anti-social personality disorder, Dr. Miller said that tests conducted by Dr. J. Klinka in May, 1997 indicated that he had high scores in relation to depression, conflictual personality and irresponsible impulsiveness, but his total score on the Psychopathy Check List was only 18, well below the score considered to be the threshold of psychopathy. On the question of job training, Dr. Miller said that job-readiness programs are available through Manpower Canada. If Mr. Dixon were more integrated into the community, he might give up some of the undesirable features of his present lifestyle; but he did not want to become involved in training at this time as he was spending a lot of time at home with his children.

¶ 13 On the issue of Mr. Dixon's marihuana use, Dr. Miller reiterated his view that while marihuana use by itself may not cause violence, taken in conjunction with other factors that are present in Mr. Dixon's case there is a synergistic effect that does create an increased risk of violence. Dr. Miller could not say whether marihuana was associated with the commission of the index offence or any other offence by the accused. When asked what the Clinic's policy was with respect to breaching a patient for failure to comply with the disposition prohibition against the use of marihuana, the reply was that the Clinic felt that as the Review Board had imposed the prohibition, the Board expected it to be enforced. It was not a clinical issue, and from the point of view of deterrence, careful, ongoing monitoring, without a prohibition, might be just as effective. (Mr. Vollert noted, however, that having the specific prohibition in the disposition made it more likely that the court would act on a Forensic request to have the patient breached for failure to comply with the disposition order.) When asked about negative consequences of stopping smoking marihuana, Dr. Miller said that there would be withdrawal symptoms which would be over in a few weeks. Going off marihuana was not likely to increase his consumption of alcohol -- in fact, increased marihuana use was likely to lead to increased alcohol use.

¶ 14 Mr. Dixon gave evidence at the hearing. In reply to questions he said that he had one conviction for assault when he was 16 years old; and in 1989, when he was grieving over the death of a friend, he had used a hand-gun to hijack a taxi. He had no other record of criminal or domestic violence. He used to drink (all of his friends were drinkers), but he has changed his lifestyle -- he does not have time to drink now. There is no alcohol in his home or immediate living environment. This change is not due to any Alcohol Rehabilitation program: he just stays abstinent. With regard to marihuana consumption, he smoked five joints a day from the time he was 14 years old. After October, 1997 he quit for a while (two or three weeks) but suffered "way more nausea" and was stressed out, so he resumed smoking. He now smokes one joint every second day (some days more). He has adapted well to this new level, and finds that he has more energy. Even if smoking marihuana was prohibited, he was not going to give it up because he enjoys it, and it is not a problem. Alcohol was a problem, and he had quit that, but with regard to marihuana he said, "I have quit as much as I am going to quit." On the question of employment, he said that he had taken some vocational upgrading before the children were born, but he could not concentrate. However, he was prepared to try again, even though he finds it difficult to talk to people whom he does not know.

¶ 15 Mr. Dixon said he knew now that smoking five joints a day had interfered with his concentration, but he did not want to stop smoking, for he needs it to control his nausea, that seems to affect him especially when he is travelling in motor vehicles. He said that the last time he had a joint was on Saturday night (the hearing was on Monday morning). It does not cost him anything, for he gets it free from friends who grow it. The quality has improved, and he gets "the same buzz off fewer smokes now". He said that Dr. Miller was "completely wrong" in suggesting that you are a greater risk when smoking marihuana than when you are not. He has never committed a crime when under the influence of marihuana. He was under the influence of alcohol when he committed the index offence. The November, 1997 drinking episode was just a case of him having some friends over and thinking that he could probably handle a few drinks. His common-law wife smokes once or twice a week, and they have not really considered the possibility of quitting together. Neither of them smokes in the presence of the children.

Submissions

¶ 16 The Representatives of the Director made no recommendation with respect to the disposition option to be chosen by the Review Board.

¶ 17 Ms. Tyhurst pointed out that despite considerable stress, her client had committed no violent acts since the index offence. He had also made progress in his relations with the Clinic, as he now gets along well with Mr. Vollert. The prohibition against the "consumption of alcohol or the use of hallucinogens including marihuana" did nothing for him clinically, and she submitted that at least insofar as the use of marihuana was concerned, the prohibition should be deleted. In its place, she recommended the inclusion of a broad monitoring provision, which would leave to the discretion of the Treatment Team questions of the frequency and intensity of the monitoring and of whether non-compliance with the disposition order should result in Mr. Dixon being breached.

Considerations and Conclusions

¶ 18 Section 672.54 of the Criminal Code requires that the Review Board 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". Having taken these considerations into account, the Review Board must then make one of the following dispositions that is the least onerous and least restrictive to the accused: (a) an absolute discharge where the Review Board is of the opinion that the accused is not a significant threat to the safety of the public (which includes a potential risk -- Orlowski v. British Columbia (Attorney General) (1992), 75 C.C.C. (3d) 138 (B.C.C.A.)); (b) a discharge subject to such conditions as the Review Board considers appropriate; or (c) an order directing that the accused be detained in custody in a hospital, subject to such conditions as the Review Board considers appropriate.

¶ 19 The Review Board had no difficulty in coming to the conclusion that Mr. Dixon was not entitled to an absolute discharge at this time. His threatening conduct with knives and firearms in the past, his impulsive conduct, his lack of insight into the factors affecting his mental condition, his non-compliance with directions of the Treatment Team and his proneness to anxiety attacks when things are not going the way he wants are all reasons why the Review Board is not of the opinion that he is no longer a significant threat to the safety of the public.

¶ 20 Neither did the Review Board have any difficulty in concluding that the least onerous and least restrictive appropriate disposition at this time is a discharge with conditions. It is not necessary at this stage to make a custodial disposition in respect of Mr. Dixon, for at the present time, he does not show signs of psychosis requiring observation or treatment in a hospital; nor does he represent an imminent risk of danger to himself or others requiring the secure accommodation offered by the Forensic Psychiatric Institute ("FPI"). That is not to say, however, that he may not need this kind of care or security at relatively short notice, so the provision found in Condition #4 of the existing disposition,

requiring him to return to and remain at FPI "where the Director is of the opinion that the accused's mental condition requires assessment as he may be a danger to himself or others", is included in the new disposition.

¶ 21 The Review Board found that Mr. Dixon is coping with his situation, and while his compliance with the directions and recommendations of the Treatment Team leaves a good deal to be desired, his relationship with Mr. Vollert is reasonably good, and he seems to be a bit more open to suggestions than was the case before. We hope that this trend will continue. Overall, however, after considering all of the evidence, the Review Board agreed with Mr. Vollert's assessment that there had not been much change since the hearing of October 23, 1997, and the Board was satisfied that the disposition made at that hearing still remained appropriate.

¶ 22 The Review Board considered the arguments that were made by Ms. Tyhurst in favour of dropping the prohibition on the use of marihuana, but it came to the conclusion that the prohibition should be retained. In its deliberations it addressed the following questions: (1) What effect does marihuana have in relation to the mental condition and the behaviour of the accused? (2) If marihuana is a noxious substance in relation to the mental condition or behaviour of the accused, what is the best way of dealing with it in a disposition? (3) If its use is prohibited by a disposition, how should the prohibition be enforced?

1. What effect does marihuana have in relation to the mental condition and the behaviour of the accused?

¶ 23 The medical evidence placed before the Review Board made it clear that while the use of marihuana may not by itself create a major risk factor, it does create a significant risk in most instances where the user is also affected by other factors such as anti social behaviour, alcohol abuse and irresponsible impulsiveness to which Mr. Dixon is predisposed. This is not to deny that in some instances people may not be so affected by marihuana use, and Mr. Dixon strongly maintained that marihuana simply made him feel mellow. However, on the evidence, the Review Board concluded that the probability is that continued use of marihuana by Mr. Dixon's does create a significant increase in the risk that he will commit some act of violence endangering the safety of the public.

2. If marihuana is a noxious substance in relation to the mental condition or behaviour of the accused, what is the best way of dealing with it in a disposition?

¶ 24 The thrust of Ms. Tyhurst's argument was that the prohibition in the existing disposition had not worked, for Mr. Dixon had not stopped smoking, and attempted enforcement of the prohibition through breach proceedings was not clinically advantageous. As Mr. Dixon had told the Review Board that he intended to keep on smoking marihuana at the same rate as he is at present, continuance of the prohibition in the new disposition would be equally ineffective. She submitted that the appropriate measure to take would be to omit the prohibition from the new disposition and instead to give the Treatment Team broad powers to monitor the accused as and when the Team sees fit, and also to leave

up to their discretion the question of whether to take action if the accused failed to comply with the conditions of the disposition.

¶ 25 It may appear to be redundant to include a prohibition with respect to the use of marihuana in Review Board dispositions, for possession of that substance is punishable as a criminal offence: see s. 4 of the Controlled Drugs and Substances Act, 1996, c. 19. However, the prohibition in the disposition serves two useful purposes: first, it helps to reinforce the clinicians' zero tolerance rule by clearly setting out for the accused that drug use is a type of conduct that is be avoided, and, second, it provides a mechanism for bringing the accused back into a therapeutic milieu in the event of a breach. The fact that Mr. Dixon chose to disregard the prohibition in the October 23 disposition is no more indicative of the prohibition's lack of utility than it is of the lack of utility of s. 4 of the Controlled Drugs and Substances Act, which he also has flouted. In fact, on his own evidence it would appear that to a large extent the prohibition has had the desired effect upon him, for he has reduced his daily use from five joints a day to one every other day. Even allowing for the greater potency of the marihuana he is using now, the reduction is significant, and he is seeing the change in his energy level as a result. Moreover, he was able to stop altogether for two to three weeks at a time when his consumption was at the higher level and his withdrawal symptoms would be more pronounced. With the lower rate of use, kicking the habit should be all the easier. Accordingly, the incentive to quit that is inherent. in the prohibition should be continued.

¶ 26 Ms. Tyhurst suggested that giving a broad monitoring authority to the Treatment Team, along with flexible rules of enforcement with respect to breaches, would be a suitable replacement for the present prohibition. The idea has a good deal of merit, and, indeed, it was used by the Board in a recent disposition, where it was satisfied that the accused had been mentally stable for six years despite using marihuana on a fairly frequent basis. The Review Board concluded that there was good reason to believe that this person was someone who was an exception to the general rule and for whom the zero tolerance regime with respect to marihuana use was not necessary from the standpoint of maintaining either his mental stability or his good social behaviour. However, the Review Board could not come to those conclusions in relation to Mr. Dixon at this time.

¶ 27 In the opinion of the Review Board the provisions of the existing disposition, which prohibit the consumption of alcohol or hallucinogens including marihuana, and authorize the monitoring of his compliance with the order by means including sampling of his breath, blood or urine on request, are appropriate methods of dealing with Mr. Dixon's use of marihuana and other noxious substances.

3. If its use is prohibited by a disposition, how should the prohibition be enforced?

¶ 28 Dr. Miller asked for guidance as to the kind of response the Review Board expects where the accused has been found to have violated a prohibition in the disposition, particularly one in relation to the use of marihuana. Assuming that the accused is living in the community under a conditional discharge, there are a variety of responses available, and the Director should select the most appropriate response according to the nature of the breach and the relevant surrounding circumstances.

(a) Advise the police of the breach of condition and ask them to take the accused before the court.

¶ 29 A peace office has the right to arrest an accused anywhere in Canada "if the peace officer has reasonable grounds to believe that the accused has contravened or wilfully failed to comply with the disposition or any condition of it, or is about to do so" (s. 672.91), and to take the accused before a court within 24 hours (s. 672.92). If the court is satisfied that there are reasonable grounds to believe that the accused has contravened or failed to comply with a disposition, the justice will make an order that is appropriate in the circumstances pending a hearing of the Review Board and notify the Review Board of the order (s. 672.93(2)). If the court is not satisfied that such reasonable grounds exist, the justice shall release the accused (sec 672.93(1)). These are the only provisions set out in the Mental Disorder Amendments to the Criminal Code with respect to the enforcement of Review Board orders. Bringing the accused before the court may either be an initial response by the Director, or a fall-back position if the accused does not voluntarily comply with one of the other responses listed below. While the language of s. 672.91 makes any breach the basis for a court order, as a first response to a breach the Director might normally wish to limit such applications to situations where the breach seems to signal a significant risk of physical or psychological harm to the accused or other persons in the near term.

(b) Order that the accused report to and remain at FPI for assessment and/or custody.

¶ 30 Most dispositions contain a provision under which the Director can order the accused to return to and remain at FPI either for assessment or custody purposes. Condition #4 of Mr. Dixon's disposition provides: "THAT he return to and remain at the Forensic Psychiatric Institute where the Director is of the opinion that accused's mental condition requires assessment as he may be a danger to himself or others . . .". If, therefore, it was considered that Mr. Dixon's marihuana smoking may be a potential threat of physical or psychological harm to himself or others, the "return and remain" provision could be used by the Director. This involves a less immediate and less significant risk of harm than the guideline proposed for applying to have the accused brought before the court. If the stay at FPI were to exceed seven days, the Director would be required to report the restriction on the liberty of the accused to the Review Board, which must, under s. 672.81(2)(a), hold a review hearing as soon as practicable thereafter.

(c) Report the breach to the Review Board and request a review of the disposition.

¶ 31 Where there is fresh evidence indicating a significant change in the circumstances since the last hearing of the Review Board, which the Director believes justifies a change in the nature or conditions of the disposition, the Director may request that a review hearing be held, and under s. 672.81(2)(b) the Review Board must hold a review hearing as soon as practicable thereafter. For example, the Director might seek a review hearing on the basis of evidence that there had been a dramatic increase since the last hearing in the amount of marihuana being used by the accused, or there had been a significant change in some of the other risk factors.

(d) Increase frequency of reporting to the Forensic Clinic or restrict relevant privileges.

¶ 32 Even without a specific delegation, under s. 672.56, of authority to increase or decrease restrictions on the liberty of the accused, the Director has a number of powers under the disposition that can be used as a response to the failure of the accused to comply with the prohibition on the use of marihuana. Specifically, Condition #3 permits the Director to increase the frequency of reporting to the Forensic Clinic by the accused, and permits the Director to order that the accused attend at other times or places "to assist him in his treatment, as well as for the purposes of assessment, counselling, rehabilitation and monitoring his mental condition and his compliance with this disposition". This could include attending drug counselling programs or other rehabilitation programs: If it appeared that he was residing in an area where drug usage was rampant, the Director, under Condition #2, could require that he change his place of residence to a place more conducive to a drug-free life. Under Condition #1 (the "general direction and supervision" provision), the Director may be able to impose a curfew or to prohibit the accused from attending at certain locations.

(e) Notify the Review Board and the Attorney General of changes in circumstances which may increase the risk, but with respect to which the Director does not plan to utilize response options (a) through (d).

¶ 33 The changed circumstances might, for example, include continued use of marihuana at a slightly higher rate than was reported to the last Board hearing. This notification would permit the Attorney General to apply for a special hearing under s. 672.82(1), or the Review Board to schedule an early annual hearing under s. 672.81(1).

¶ 34 The above list involves a hierarchy of some response options that might be exercised by the Director. It is not intended that they bind the hands of the Director, nor, indeed, the hands of subsequent panels of the Review Board. This only represents the opinion of the members of the present panel of the Board in relation to the matter before it.

¶ 35 As mentioned earlier in these reasons, the provisions of the October 23, 1997 disposition are repeated in this disposition. There is, however, one exception, namely, the date by which the next hearing should be held. Because this case involved a full hearing of all aspects of the case, it is appropriate that it be treated as an annual hearing and that the next disposition take place within twelve months. If any significant changes occur in the material circumstances of the case, any of the parties may, of course, apply for an early hearing.

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