

Who is the BC Review Board?

The British Columbia Review Board is an independent tribunal established under the *Criminal Code of Canada*: section 672.38 (1). Its members are appointed by the Lieutenant Governor in Council of BC.

How is the Review Board constituted?

The Board must have at least five members. The Review Board must have at least one psychiatrist and its Chair must be a judge, a retired judge, or a person qualified to be appointed as a judge: [s. 672.39 and 672.4(1)]. Other members are qualified professionals with relevant experience.

Who represents the public at a Review Board hearing?

The public is represented by the Attorney General (Crown counsel). Accused are represented by defence counsel or may self-represent. The Director of Forensic Psychiatric Services is also represented by counsel or an agent.

What is the Review Board's role?

The Review Board holds hearings, makes and reviews dispositions (orders) for accused persons where a court has rendered a verdict of not criminally responsible on account of mental disorder (NCRMD) or unfit to stand trial (UST) and has referred the matter to the Review Board.

The Review Board is governed in its decision-making by the provisions of the *Criminal Code* and by jurisprudence from the Courts. The leading case governing the Review Board's decision-making is *Winko v. British Columbia*, [1999] 2 SCR 625.

What does the Review Board consider when making a decision?

The Review Board must take into account the safety of the public, which is the paramount consideration, the mental condition of the accused, the need to reintegrate the accused into society, and the other needs of the accused. The Board makes its decisions based on evidence presented at a hearing. After a hearing, the Review Board must determine if the person is a "significant threat" to public safety. If the Review Board finds that an accused is not a significant threat to public safety, it must absolutely discharge the accused.

If the Review Board finds that an accused is a significant threat to public safety, it must make the least onerous and least restrictive disposition (order) which is both protective of the public and meets the accused's needs. The Board may order an accused be held in custody or may discharge the person subject to conditions.

What constitutes a "significant threat" to public safety?

The Criminal Code provides in s. 672.5401 that a person is a significant threat if they pose "a risk of serious physical or psychological harm to members of the public... resulting from conduct that is criminal in nature but not necessarily violent".