# BRITISH COLUMBIA

# (CRIMINAL CODE) REVIEW BOARD

# ANNUAL REPORT

## Fiscal Year:

## April 2024 – March 2025

***Protecting the Public and Meeting the Needs of Mentally Disordered Accused Persons***

# Contents

# Letter from the Chair

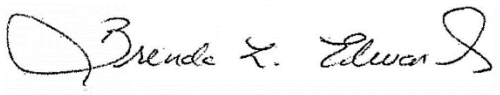
October 1, 2025

The Honourable Niki Sharma
Attorney General  Parliament
Buildings Victoria, BC V8V 1X4

Dear Minister:

I am pleased to submit the Annual Report of the British Columbia Review Board (Board), established under the *Criminal Code of Canada* for the Fiscal Year 2024 -2025.

Sincerely



Brenda L. Edwards
Chairperson
BC Review Board

# Chair's Message

Resource shortages in the past fiscal year have meant that the Board continues to be challenged to meet its mandate to protect the public and meet the needs of mentally disordered individuals in BC. In my view, these shortages put the safety of the public and the rights of individuals at risk.

As you know, the BC Review Board is federally mandated under the *Criminal Code* to make and review dispositions for mentally disordered persons who have been found by a court to be unfit to stand trial or not criminally responsible for an offence on account of mental disorder (NCRMD). In carrying out its mandate, the Board must consider the safety of the public (the paramount consideration) and must also be mindful of the accused's needs, including their need to *safely* reintegrate into society.

You may recall that I reported last year on the dwindling number of resources available to treat and house mentally disordered forensic patients in British Columbia. The situation has since worsened. BC has an inadequate supply of forensic psychiatric hospital beds, no residential substance use treatment beds for forensic hospital-based patients, and a dearth of adequately staffed and supported residences available to accommodate those patients who no longer require hospital care but require close oversight and supportive services.

As I have discussed with you and reported previously, British Columbia has only one psychiatric hospital for treating and assessing forensic patients and many competing demands for that hospital's services. The Forensic Psychiatric Hospital in Coquitlam (FPH) provides assessment and treatment services to in-custody accused persons found either unfit to stand trial (unfit) or not criminally responsible on account of mental disorder (NCRMD). FPH also provides services to inmates who are temporarily absent from Correctional Centres because they require assessment for the court or treatment under the *Mental Health Act. At* times this year, the demand for admission has exceeded the supply of appropriate beds. When this occurs, court-ordered admission is delayed, and the Board cannot convene a hearing to review the matter. This leaves many mentally ill disordered individuals without the psychiatric care they require – potentially endangering themselves and those around them, and (in the case of unfit accused) delaying judicial proceedings before a verdict is reached, which can be deeply distressing for victims seeking closure.

Over the past fiscal year, the Board has also received evidence at hearings that accused persons are being detained longer in a more secure setting than they require. This happens when there is either no room for them on a less secure unit at FPH or when there is no

supportive and supervised housing resource in the community to which they can safely be discharged. In the case of patients whose risk to public safety is driven in part by a substance use disorder, absent treatment, they cannot be safely discharged to the community. I reported last year on the shortage of residential drug and alcohol treatment programs in BC. That situation has worsened over the 2024-25 fiscal year. Since the Baldy Hughes Therapeutic Treatment Program in Prince George closed its doors there is now **no** residential alcohol and drug use program in BC that will accept forensic patients on leave from FPH. To make matters worse, low barrier housing such as Johnson Manor in Victoria has also closed their doors to forensic patients. Without access to appropriate supervised housing, the Board is unable to order community reintegration through the incremental supervised approach, which is often the only safe and viable option.

Further, many cognitively challenged individuals under the Board's jurisdiction – those suffering from brain injury, dementia and developmental delay – could be safely managed in facilities and residences outside of FPH. However, tertiary care facilities, long term care residences and home share arrangements are increasingly unwilling to accept forensic patients. Community Living BC (CLBC) offers services for only a small group of patients with developmental disorders, but even those who qualify for CLBC services can be left waiting many years before CLBC arranges supervised accommodation.

As I am sure you will appreciate, it is a matter of simple mathematics that when more forensic patients are admitted into the system than are being discharged, a tension begins to build. If that pressure is not alleviated by a significant injection of resources, the Board will be unduly hampered in its ability to meet its mandate (primarily protecting the public) and the administration of justice risks being brought into disrepute.

I must also repeat my message from last year, that the Board incurs significant expense and is unable to improve its efficiency due to a legislative impediment. Under section 672.5(13) of the *Criminal Code*, the Board may not convene a hearing by videoconference (as often occurs in the courts and/or at a myriad of adjudicative tribunals) without the accused's agreement – whether the accused is unfit or NCRMD. As this report demonstrates, Board hearings have transitioned from almost entirely video hearings over the course of the pandemic (held by Microsoft Teams) to most hearings now occurring in-person at either the lone Forensic Psychiatric Hospital or in the community at Regional Forensic Clinics, local hospitals and in other venues. While the Board continues to offer video hearings to accused who agree, few do. Board members reside throughout the province, but most hearings occur in the Lower Mainland, therefore the Board incurs significant expense and is challenged to convene hearings year-round on an in-person basis. Accused persons may be conditionally discharged

to live in any region of the province and, when they seek an in-person hearing, Board members must travel to those locations.

This hybrid model of service poses challenges. First, the Board is an extension of the criminal justice system, yet the Board has been denied access to the province's courthouses. As you know, the Board is not supported by the province's Sheriff Services, nor are we permitted to convene hearings in courthouses. For years this has meant that the Board has been mandated to convening hearings for accused persons who are charged with violent offences (some of whom were untreated, substance addicted, unhoused and mentally unstable) without any form of security. Last year I first voiced concern that the Board is not adequately supported and our members, the parties and any public in attendance may be at personal risk. I am pleased to report that, over this fiscal year, the Ministry of Attorney General agreed to fund highly trained private security officers to create safety plans for, and attend at all, community-based hearings. Unless and until the Board is permitted to convene hearings by video or in a courthouse, the costs of that security will continue.

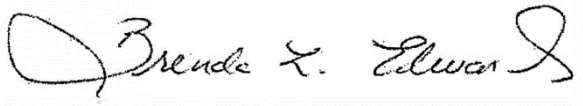
Further, the Board is not infrequently faced with scenarios whereby one panel of the Board will be hearing a matter virtually while a second panel is hearing another matter in person because the accused is not agreeable to a video hearing. This necessitates a duplication of both staff to support the hearings and members to constitute the hearing panels. For these reasons, I am formally requesting that you raise with your federal/provincial/territorial counterparts whether an amendment to the *Code* that provided the Board with discretion to convene by videoconference in certain circumstances might be appropriate.

As you know, the Board's composition is mandated under the *Code* and must include current or retired members of the judiciary (or senior lawyers), psychiatrists, and members from other relevant backgrounds (including psychology, criminology, social work and forensic psychiatric nursing). I am pleased to report that the Board gained five new members in 2024-25 (three candidates qualified to be Alternate Chairpersons, one psychiatrist and two public members). Unfortunately, our gain was short-lived as the Board lost the services of two legal members and one psychiatrist, and I received notice from three other psychiatrists of their intention to leave the Board shortly after the fiscal year end (all three have since left the Board). With the Board's increasingly complex workload, the challenges of constant travel, the risks to personal safety, and given the low remuneration relative to other legal and judicial positions, the Board continues to struggle to meet its statutory obligations and recruiting and retention remains an issue.

As I reported in the Board's 2023-2024 Annual Report, the subject matter of Board hearings is often disturbing – all accused persons are before the Board because they have been found to pose a significant threat to the public. As Board Chairperson, I can attest to how challenging it can be for the Board and staff to review evidence, hear the first-hand accounts of accused persons and their victim's or victims' families, adjudicate and then write reasons about the offences that bring the accused before the Board. Often the evidence has not been heard in court because the accused was too unwell or chose not to testify, or because the facts were not fully known, or the evidence is new since the accused committed the crimes. This fiscal year, the Board (working with the Ministry of Attorney General's Tribunals and Agencies Support Division) offered training sessions for the Board and staff regarding recognizing and coping with Vicarious Trauma. Those sessions were well-attended and I have heard that they were beneficial to both members and staff. In my view, it is essential that the Board continues to offer Vicarious Trauma training to new and existing members and staff.

The Board continues to meet regularly (both in-person when fiscally feasible, and by videoconference) with our stakeholders and as a Board to identify areas of concern and offer possible resolutions. We also continue to offer regular professional development sessions for the Board in-house, through our collaboration with the UBC Forensic Education program, and through the BC Council of Administrative Tribunals to ensure that our members and staff remain well educated and prepared to fulfill their duties.

I trust that this report offers insight into the work of the BC Review Board and the Registry staff who support this important work on behalf of the public.



# Overview of the BC Review Board

The British Columbia Review Board (BCRB) is an independent adjudicative tribunal, established pursuant to Part XX.1 of the *Criminal Code of Canada*. Although created by federal legislation, each Review Board is treated as though it were established under the laws of the province. Members are appointed by the provincial Cabinet. The BCRB is part of Canada's criminal justice system. Review Boards have concurrent jurisdiction with the courts in relation to matters in Part XX.1 of the *Code*.

Part XX.1 of the *Code* balances the need to protect society from those mentally disordered accused who are dangerous with the need to treat the offenders fairly, with due process and fundamental fairness. Appeals of BCRB decisions go directly to the BC Court of Appeal, without need for the Court to grant leave.

The criteria for appointment to the BC Review Board are found in Part XX.1, which requires the Board to sit in panels of at least three. Each panel must be chaired by a judge, or a person entitled to be appointed as a judge and must include a psychiatrist and a third member with relevant background.

The Board's mandate is to make and to review dispositions with respect to individuals who have been charged with criminal offences, where the court has rendered a verdict of not criminally responsible on account of mental disorder (NCRMD) or unfit to stand trial (unfit).

For individuals found to be unfit to stand trial, the Board retains jurisdiction until a court finds that they are fit to stand trial or orders a stay of proceedings. In the interim, the Board must make a disposition that is the least onerous and restrictive to the accused.

For accused persons found not criminally responsible, the Board retains jurisdiction if it is of the view that they are a significant threat to public safety. If they are not a significant threat, the Board must order that they be discharged absolutely. If they are a significant threat, the Review Board must order the disposition that is the least onerous and least restrictive to the accused, either custody in the Forensic Psychiatric Hospital in Coquitlam or release subject to conditions. In reaching its decision, the Board must take into consideration the need to protect the public from dangerous people, the mental condition of the accused, the reintegration of the accused into society and the other needs of the accused.

The *Criminal Code* mandates a review of disposition (order) for all individuals who are under the Board's jurisdiction, at least once every 12 months. Some individuals will have their order reviewed more than once every year. Parties to a hearing typically include the accused, the person in charge of the hospital where the accused is or may be detained, and a representative of the Attorney General. Those accused persons who are declared to be unfit to stand trial must be represented by counsel at hearings, and most accused persons found not criminally responsible

are also represented by counsel. At each hearing, the Board will consider evidence from the accused's psychiatrist and treatment team, along with any other evidence which may be put forward by the Director of Forensic Psychiatric Services, Crown counsel or the accused. After, the panel that heard the matter deliberates. It will make an order, known as a disposition. Later the panel will provide written reasons for making the order that it did.

Hearings must occur within statutory timelines (45 or 90 days from the initial determination by the court), as well as annually, and mandatorily on the occurrence of certain events which affect an accused person's liberties. The disposition may on occasion be communicated orally after the hearing, but in any event a written disposition will be provided to the parties generally within two business days. The Board strives to provide written reasons for its decisions to the parties within seven weeks of the hearing and, in respect of unfit accused who are sent back to court, within two weeks.

Most in-person Review Board hearings are conducted at the Forensic Psychiatric Hospital (FPH) in Coquitlam. Where the accused is living in the community subject to conditions imposed by the Board, the hearing may be held at a regional forensic clinic, or at another suitable place in the community. The *Criminal Code* allows video hearings with the agreement of the accused.

Review Board hearings are open to the public. The Review Board posts notice of its upcoming hearings on its website. Persons interested in attending a Review Board hearing should notify the Registry so that arrangements can be made to attend by videoconferencing or to provide them with the address for the Forensic Psychiatric Hospital or any other location where the hearing is to take place.

Under the *Criminal Code* and the *Canadian Victims Bill of Rights,* victims are entitled to receive notice of hearings. They may wish to file a victim impact statement to be considered at the hearing. They may also read their statement aloud to the Board at a hearing. Like all members of the public, victims are entitled to attend Review Board hearings either in-person or virtually and many do.

# BCRB: A shifting landscape

## 1. *What is the mental health profile of accused persons deferred to the Board?*

The risk profile of accused persons whose matters are being deferred to the Board from the courts is changing year after year. As a result, this year the Board is offering the following narrative to assist the reader in understanding the work of the Board.

In fiscal 2024-25, most new deferrals from the court were for accused persons dually diagnosed (i.e., with a major mental disorder and a substance use disorder). For these accused persons, the most prevalent mental disorder is schizophrenia followed by schizoaffective disorder, bipolar disorder and psychosis of unknown origin. A significant majority of accused persons deferred to the Board are living with one or more substance use disorders in addition to their major mental illness – polysubstance use is common. Substances used by accused persons vary. In this fiscal year, the substances most often used by new deferred accused were alcohol (85%), cannabis (71%), cocaine (60%), and methamphetamine (43%). Other accused have histories that include misuse of substances such as heroin, ketamine, psilocybin, solvents, inhalants and prescription drugs. These figures indicated that, in the absence of sufficient addiction treatment services, a large percentage of forensic patients could be kept at FPH longer than needed, driving up costs and straining resources.

A staggering 83% of accused persons deferred by the court over the fiscal year have a documented or suspected brain injury or neurocognitive disorder from a head injury, stroke, hypoxia, dementia, or delirium. Concerningly, all of the accused persons who were deferred to the Board charged with murder have a suspected or diagnosed brain injury or neurocognitive disorder for which they will require specialized care, often in a tertiary care setting. The large number of cognitively impaired individuals under the Board's jurisdiction underscores an urgent and unmet need for appropriate community supports.

It may interest the public to know that being found unfit to stand trial does not mean that the accused person will avoid legal consequences. This fiscal year, the Board held initial hearings for nine accused persons and returned eight of them to the court having concluded that they had regained sufficient fitness to be tried for their alleged crimes. Four other unfit accused deferred in fiscal 2024-25 will have their first hearing before the Board in the next fiscal year.

## 2. *How serious are the charges?*

This fiscal year, courts in BC deferred 35 accused persons with 92 charges to the Board (some accused have multiple charges) for reviews. Of those deferred charges, the majority are for major offences (e.g., first or second-degree murder, infanticide, aggravated assault, arson, and assault causing bodily harm). While the total number of deferrals is down slightly from the previous fiscal, this is not cause for celebration. Rather it appears to be reflective of several

changing factors including the incidence of crime in a region, counsel's willingness to seek an NCRMD verdict or an unfit finding for their clients, the length of time from incident to arrest, trial and then to deferral to the Board, and other factors. The percentage of deferrals which are for violent offences remains consistent at 53% and the percentage of crimes that involve the use of a weapon remains relatively stable at 40%.

It is a concern to the Board when the courts defer accused persons found not criminally responsible or unfit with respect to violent offences on release orders, i.e. bail, despite the accused having no fixed address or living in unstable housing. It is worth noting that, despite the violent nature of the offences and the accused's mental state, almost half of all accused persons were not in custody when their matters were deferred to the Board. It is not clear why this may be the case, but it may be because the accused had no prior criminal record and had been on bail for a significant time prior to trial without incident. It may also be that the court's perspective is different than the Board's.

The court's perspective is retrospective in nature; the court's focus is on the charge that is alleged to have happened (an event which may have occurred years prior) whereas the Board's perspective is both current and forward looking; the Board's primary concern is protecting the public from future acts of violence and ensuring that accused persons receive the treatment they need, are appropriately housed and sufficiently supervised.

### *3. Where in the Province do these matters originate?*

New accused are being deferred from almost every health region. The areas of the province deferring the most offenders have changed significantly from the Board's last report. Then, the largest number of deferrals originated in the Vancouver region. This fiscal year, by far the largest percentage of new deferrals (almost half) came from **Central and South Vancouver Island** – significantly more than the total number of deferrals from the entire Lower Mainland of BC (approx. 30%) comprised of Fraser North, Fraser South, Fraser East and Vancouver. The remaining deferrals (approx. 21%) originated in the Northeast (9%), the Okanagan (6%), the Northern Interior (3%), and the East Kootenay region (3%). The data suggests that revising the *Criminal Code*'s video access provisions could be an important and necessary step for the Board to address escalating expenses.

Interestingly, while the population of South and Central Vancouver Island represents only 14% of the province's population, the area was responsible for 49% of all deferrals to the Board in 2024/25.

### *4. Who are the accused persons and who is most at risk from their behaviours?*

In fiscal 2024/25, accused persons whose matters were deferred to the Board were, by self-report, predominantly males of Caucasian ancestry who were between the ages of 20 to 59. They were mostly unhoused or in unstable housing at the time of the index offence. They had generally completed high school and had a prior criminal record. A significant number (25%) were living with family at the time of their offending behaviour. Some had sought or were receiving medical or mental health care in the community (more than 20%) at the time of the offence though most had not. For unfit accused persons, almost 70% reported using synthetic drugs (fentanyl, benzodiazepines, amphetamines or methamphetamine) before their alleged offences. These numbers make clear that forensic patients urgently require adequate services to prevent addiction relapse.

Members of the public who were harmed by unfit or mentally disordered accused were as likely to be strangers as they were to be known to the accused. Where the victim was known to the accused, most were family members. Co-patients in hospital and fellow inmates in correctional settings were the next most likely to be the subject of offences by mentally disordered persons. This underscores the importance of ensuring adequate mental health services for individuals in correctional facilities.

Approximately one in three victims will file a victim impact statement; any victim impact statement is considered by the Board when making a disposition (order) regarding whether the accused poses a risk to public safety. While media interest about matters deferred to the Board waxes and wanes, in fiscal 2024/25 half of all matters deferred to the Board had been the subject of prior media coverage.

### *5. How long do accused persons stay under Review Board jurisdiction?*

Over the 2024-25 fiscal year the Board absolutely discharged only 13 individuals (one fewer than in 2023-24). The average time under the Board's jurisdiction before being absolutely discharged increased significantly this year from four years to seven. The shortage of supervised housing options in the community clogs the system and leads to extended stays at FPH for individuals who could otherwise be discharged.

Unlike the court, the Review Board has enduring jurisdiction. This means that once a matter is deferred to the Review Board, the accused will remain subject to Board oversight and their matters will be reviewed annually so long as they remain a significant threat to public safety. It is not unusual for accused persons to remain subject to Board oversight for decades. The Board has been reviewing the case of one accused for 50 years and that person remains in custody. More than 30 accused have been under the Board's jurisdiction for 20 or more years.

## BCRB Snapshots of the Intake Process for New Accused

In fiscal 2024-25, the Board observed that, as was the case in 2023-24, the Intake process for new accused is more complex and time consuming than in prior years. Matters deferred to the Board are statutorily mandated to be reviewed within 45 days (unless the referring court has specifically provided for a longer time). Unfortunately, in the past fiscal year, 31% of cases had to be returned to court seeking an extension of time within which to hold the initial hearing. The most frequent reasons for extension requests were that the Board was unable to schedule the matter within 45 days due to the Director's witnesses being unavailable to attend a hearing, or insufficient Board resources to staff a hearing.

As noted above, courts sometimes released accused persons on bail pending an initial hearing before the Board. This may be the case even if the accused is charged with a violent offence, their mental disorders are untreated, they are in unstable housing or are of no fixed address. In these circumstances, the Board's Registry staff must be knowledgeable as to the applicable law, including any mandatory timeframes under the *Code*, and must understand the documentation that the Board will require. Further, staff must have contacts with Crown counsel and at the courts with whom they can work to locate the accused, obtain the necessary evidence, and schedule a matter before the Board.

The following examples illustrate the challenges staff and the Board face when accused persons are deferred on bail:

- **Example 1** – On February 7, 2025, an accused found NCRMD on charges of arson and break and enter was deferred to the Board on bail but without conditions requiring them (a non-binary accused) to report to Forensic Psychiatric Services (FPS) or to a bail officer, did not prohibit international travel or require the accused to surrender their passport. Further, since the bail order did not authorize FPS to compel the accused to attend for assessment, the Board had to issue an Assessment Order. The Assessment Order and Notice of Hearing were to be served on February 26, 2025. However, the address that the accused had provided to the court was subsequently determined to be false. On March 4, 2025, the accused called the Board's Registry and was informed of the scheduled hearing date (March 14, 2025). On March 5, 2025 the accused's legal counsel accepted service on behalf of his client.

  However, when the accused's initial hearing was convened on March 14, 2025, at the Victoria Regional Forensic Clinic, the accused did not appear. Their legal counsel advised the Board that he only had contact with his client by email and the client was not responding. After waiting 45 minutes for the accused to appear, the Board stood down and the Board's Chairperson issued a warrant for the accused's arrest.

  On March 24, 2025, the accused emailed the Board's Registry that they had left Canada. On March 26, 2025, the accused arrived at the Victoria International Airport and was taken into custody by Canada Border Services Agency. RCMP officers then

took custody of the accused before surrendering them to Forensic Security Officers who transported the accused to the Forensic Psychiatric Hospital in Coquitlam. The Board then had to reschedule the Board, three legal counsel, three witnesses and the accused for a hearing at the Forensic Psychiatric Hospital on April 7, 2025.

- **Example 2** – On March 5, 2025, an unfit accused was deferred on bail to the Board for a review of their fitness to stand trial on a charge of sexual assault. The initial hearing was scheduled for May 22, 2025, with an interpreter present at the accused's request. At the hearing, the Board heard that the accused did not co-operate with FPS' assessment of him for the Board. He failed to attend appointments, withheld information from FPS and alleged at the hearing that he had physical, cognitive and language barriers that prevented him from cooperating.

  The Board hearing commenced at the Victoria Forensic Clinic but did not conclude as inadequate information was before the Board regarding the nature of the accused's alleged mental disorder and details of their living arrangements – both of which were key to determining his fitness to stand trial and whether his risk to the public could be managed with him continuing to live in the community. The Board afforded the accused one further opportunity to cooperate and provide the necessary information and adjourned the hearing. The Board's Chairperson ordered that the accused surrender his passport.

  Subsequently, the Director of FPS informed the Board that the accused did not attend his scheduled appointments and did not provide the information sought. After learning this information, and that the accused had been the subject of a new police file, the Board's Chair sought police assistance to arrest the accused without warrant for his failure to comply with a Board order and to take him into custody pending an in-custody hearing at the Forensic Psychiatric Hospital in Coquitlam. The Board Registry then had to reschedule the original panel of three Board members who were seized of the matter, plus three legal counsel, witnesses for the Director of Forensic Psychiatric Services and two police officers attending as witnesses for the Attorney General of BC, as well as the accused for a continuation of the hearing at the Forensic Psychiatric Hospital. The matter is ongoing.

# BCRB Statistical Report for Fiscal Year 2024-2025

### *1. Number of Accused under BC Review Board Jurisdiction*

The total number of accused under the Board's jurisdiction (**265**) increased over the prior year despite the Board absolutely discharging **13** accused persons, returning **8** to court, and **5** others no longer being subject to the Board's jurisdiction for a variety of reasons (the accused passed away, an inter-provincial transfer to another jurisdiction was finalized, or a court entered a stay of proceedings for the charge that was before the Board).

At the fiscal year end, there were significantly more accused in custody at the Forensic Psychiatric Hospital than under supervision in the community. The fact that the Board is detaining more individuals year-over-year is indicative of the changing dynamics in the community including the increase in untreated, violent, substance-addicted accused who are being deferred to the Board and the lack of appropriate available resources to which individuals who are manageable in the community can be safely discharged. (See Figure 1)

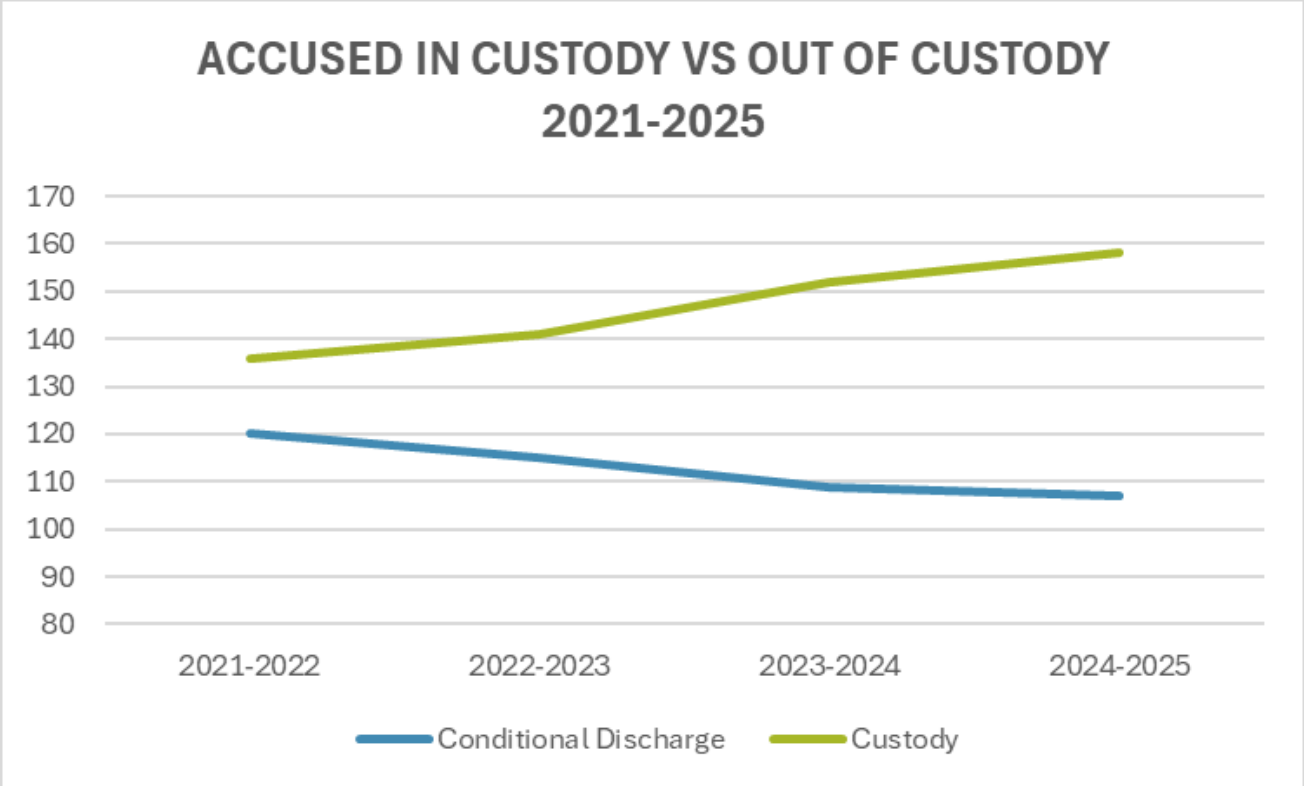



Figure 1

### 2. *Total Accused by Verdict Type*

The graph in Figure 2 (below) tracks the total accused under the Board's jurisdiction by verdict type. The NCRMD and pre-1992 not guilty by reason of insanity (NGRI) verdicts have been combined. The numbers have remained relatively unchanged over the past five years. However, there is more to this picture than is portrayed by this graphic.

As is illustrated in the figure that follows, the number of NCRMD accused under the Board's jurisdiction is rising. The total number of unfit accused remains relatively stable even though, after an initial hearing, the Board is returning many unfit accused to court to stand trial. The likely reason is that the courts are re-deferring unfit accused and are deferring new unfit accused.

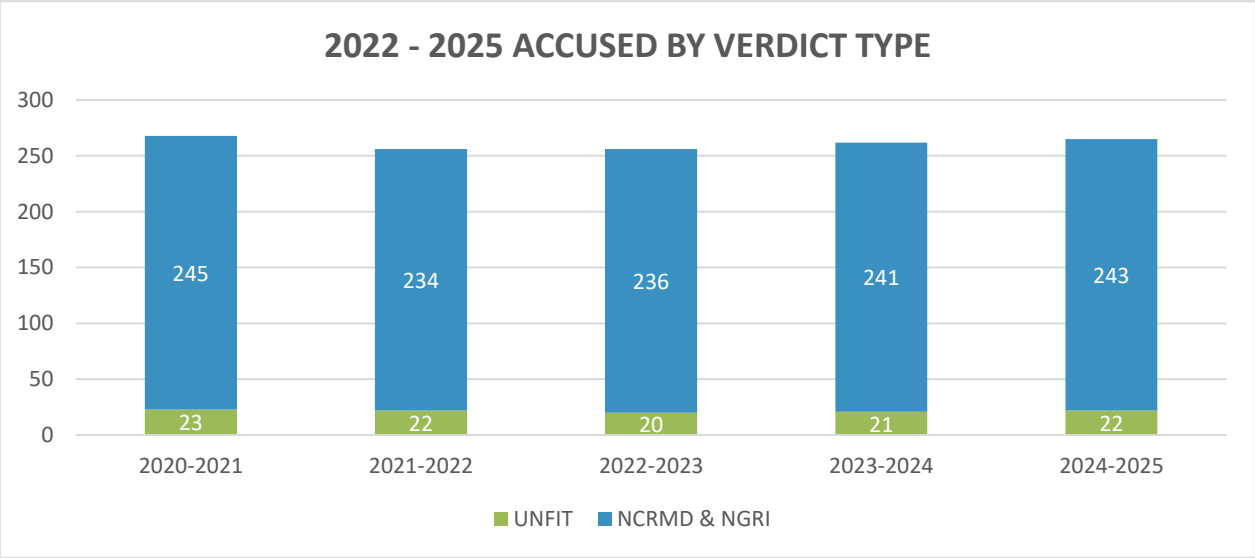



Figure 2

### 3. *New Cases Referred to the Board contrasted with Number of Accused Absolutely Discharged by the Board*

New cases that are deferred to the Board from court include both accused who are NCRMD, as well as accused who have been found unfit. This fiscal year the majority of new deferrals were for accused persons who have been found NCRMD (63%) while the remainder were found unfit (37%).

NCRMD cases will typically remain under the Review Board's jurisdiction far longer than those found unfit as the latter will return to court as soon as their fitness is regained, e.g., after treatment. In the 2024-25 fiscal year, after an initial hearing, the Board returned 89% of unfit accused to the court to stand trial. Since some accused's mental state is quite fragile (i.e., they remain unfit only so long as they are treated and supervised), it is not unusual for the Board to return an unfit accused to court only to find that, by the time their matter is heard by the court, the accused has become unfit to stand trial because they ceased taking their medication and were not subject to close oversight and supervision by a forensic team. In that case, the court will return the person to the Board's jurisdiction, and the cycle may be repeated.

Over the course of the 2024-25 fiscal year, the Board increasingly heard evidence that treatment teams both in the community and at the Forensic Psychiatric Hospital could not recommend discharging patients from their care due to a dwindling number of community-based resources willing to accept forensic patients. The Board cannot discharge accused persons if the services they need to safely manage their risk are unavailable.

Absent a placement that can offer drug treatment or intense support and supervision to manage the risk that an accused would otherwise pose to the public, accused persons must remain in custody at the Forensic Psychiatric Hospital. The Board is currently overseeing matters for accused persons who have been subject to its jurisdiction for decades (the longest being 50 years). Some accused die in custody, other aging accused persons require long term care. For still others, the key to managing their risk to the public is substance abuse treatment and close supervision – many would not require hospitalization in a forensic facility if sufficient supervised community-based resources were available.

Over the course of the 2024-25 fiscal year, the Board heard evidence that there was a dearth of residential substance use treatment programs that would accept forensic patients and, of the limited few available, none would accept patients who were subject to a detention order. Put another way, there were no community-based resources that would accept an in-custody accused so that their addiction could be treated before they were discharged to live in the community. Placement at a residential treatment program whilst still subject to a custody order is protective of the public in that, if treatment is not successfully completed, the accused relapses, or more is needed to mitigate the accused's risk, the accused can be promptly returned to the Forensic Psychiatric Hospital under the terms of their custody order.

It is of real concern to the Board that, like substance use treatment programs, there is an acute shortage of housing resources that will accept forensic patients. Again, over the course of the 2024-25 fiscal year, the Board received notification that one of the few staff-supported residences which had previously accepted many forensic patients (Johnson Manor in Victoria), closed its doors to them as of March 2025. Without an adequately supervised and supportive community residence, many accused persons pose an undue threat to public safety and must stay in custody at the Forensic Psychiatric Hospital. (See Figure 3)

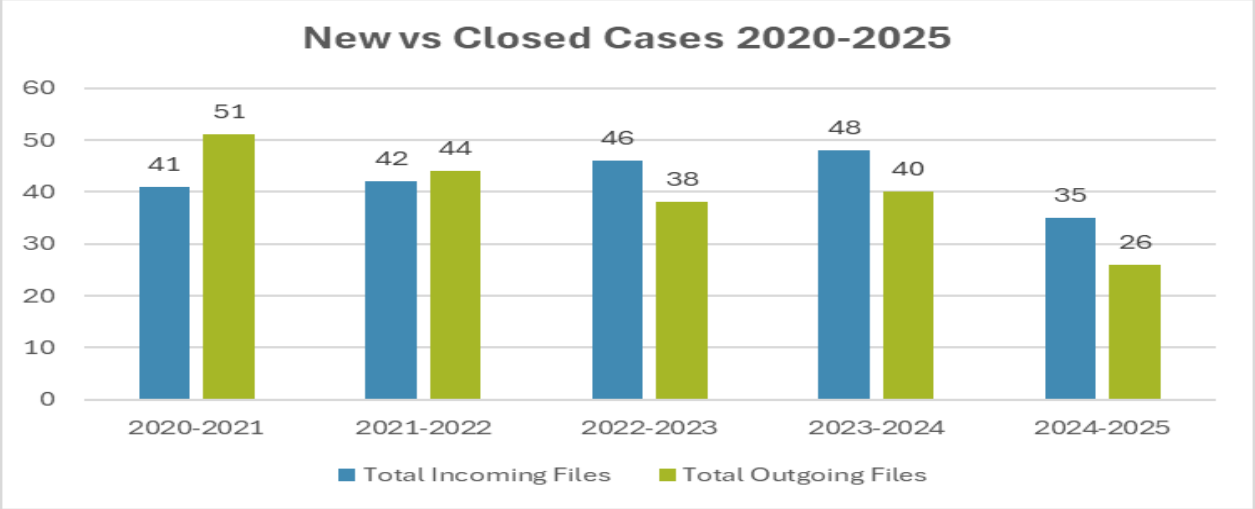



Figure 3

### *4. New Deferrals by Seriousness of Offences*

As was the case last year, in fiscal 2024-25, the new cases deferred from courts to the Board were among the most serious provided for in the *Criminal Code.* The accused persons included:

- one person found NCRMD on a charge of first degree murder;
- three persons found NCRMD on a charge of second degree murder;
- one person found NCRMD on a charge of infanticide;
- one person found unfit on a charge of robbery;
- four persons found either NCRMD or unfit on charges of aggravated assault;
- two persons found either NCRMD or unfit on charges of assault causing bodily harm;
- two persons found either NCRMD or unfit on charges of sexual assault;
- three persons found either NCRMD or unfit on charges of assaulting a peace officer;
- five persons found either NCRMD or unfit on charges of assault with a weapon;
- three persons found either NCRMD or unfit on charges of assault;
- three persons found unfit on charges with indecent exposure in a public place;
- two persons found NCRMD on charges of uttering threats to cause death or bodily harm;
- two persons found NCRMD on a charge of arson;
- one person found unfit on charges of failing to stop a motor vehicle when pursued by police;
- one person found NCRMD on a charge of breaking and entering; and
- one person found unfit on one count of mischief. (See Figure 4 below)

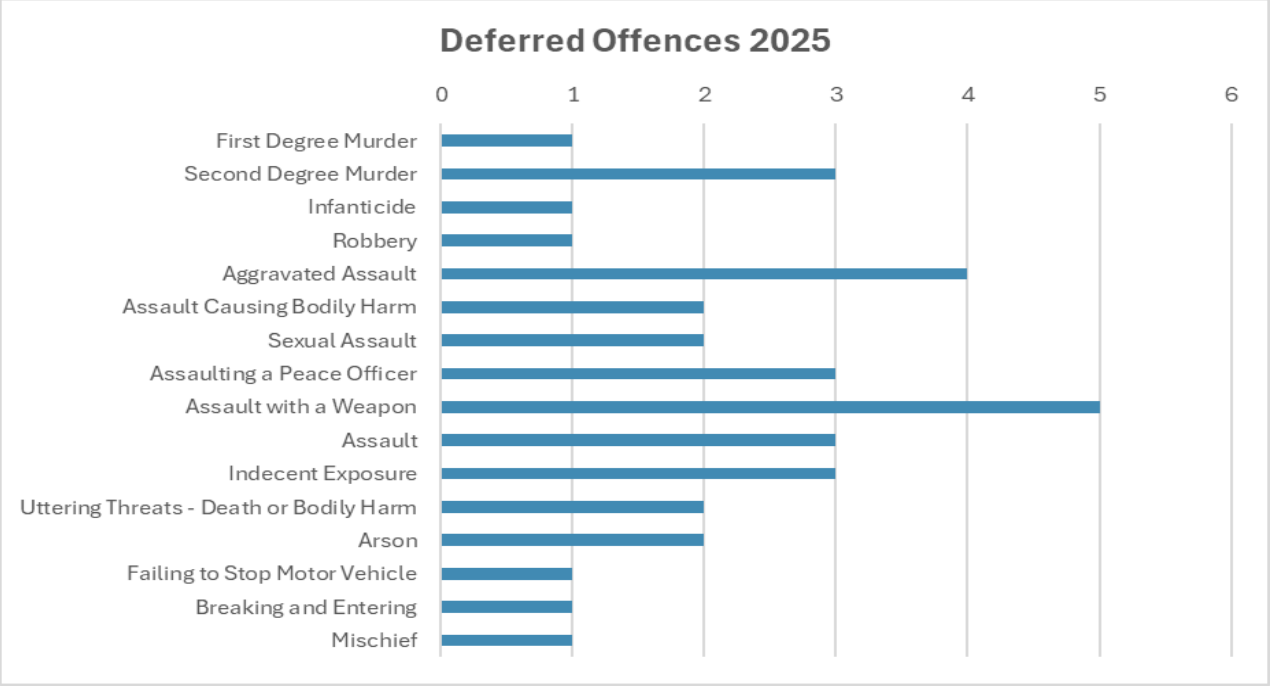



Figure 4

### 5. *Case Closure by Reason*

The Board closes some accused persons' files every year. The graph in Figure 5 below indicates that the two main reasons for case closure are absolute discharges (in the case of NCRMD accused) and matters where an unfit accused has been returned to court and subsequently found fit to stand trial. Besides these, a case may be closed due to an accused's death, interprovincial transfer, charges being stayed, a successful appeal of their status, or a "consolidated verdict"[2].

This fiscal year, the Board closed **26** files [13 were absolutely discharged, eight were found fit and returned to court, three accused persons died while subject to the Board's jurisdiction, the court stayed the proceedings for one matter, and one accused transferred to another jurisdiction (Ontario)]. The Board also reviewed a request by a BC resident held in custody abroad to transfer to our jurisdiction – the matter is ongoing.

[2] When an accused person has more than one court verdict of NCRMD or unfit, they are combined into one Review Board 'case' and are consolidated/heard together.

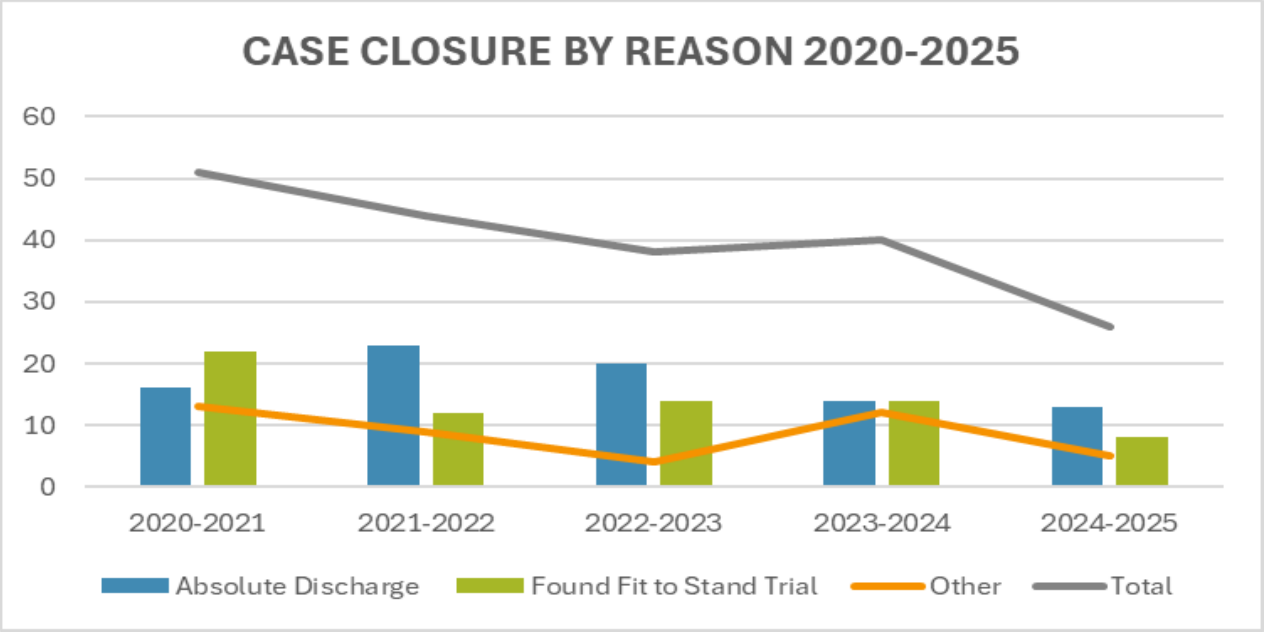



Figure 5

### 6. *New versus Closed Cases*

The graph in Figure 6 below demonstrates the number of new NCRMD accused coming under Board oversight as compared to those whose files have been closed after the Board made an absolute discharge. Over the last five fiscal years, the gap between the number of new cases and the number of closed cases has widened.

The result, from the Board's perspective, is an unsustainable pressure on the forensic system, including the forensic treatment teams who care for these individuals and the Board which

reviews their cases, as more new accused are entering the system (and in particular the hospital) than are being discharged. Of course, the Board cannot discharge patients when it is unsafe to do so. Further, the Board must consider when it learns of accused persons who are in the community but are not complying with the Board's orders whether that person ought to be returned to custody for the protection of the public. When the Board orders the detention of a patient who was previously cared for in the community, the pressure on the hospital increases.

It would be unfair to leave this issue without noting the competing demands on the limited bed space at FPH. Not all patients at FPH are subject to the Review Board's jurisdiction. Accused persons are also admitted to FPH from Correctional Centres for assessment and treatment.

Given the constant and increasing pressure on this scarce resource, it is apparent that a second forensic psychiatric hospital is needed to ensure the protection of the public and to meet the needs of mentally disordered offenders and accused in BC. (The Board notes that Ontario has 11 forensic hospitals serving a population of 15.9 million. BC, by contrast, has one forensic hospital serving a population estimated to be at 5.7 million as of the 2024-25 fiscal year end.)

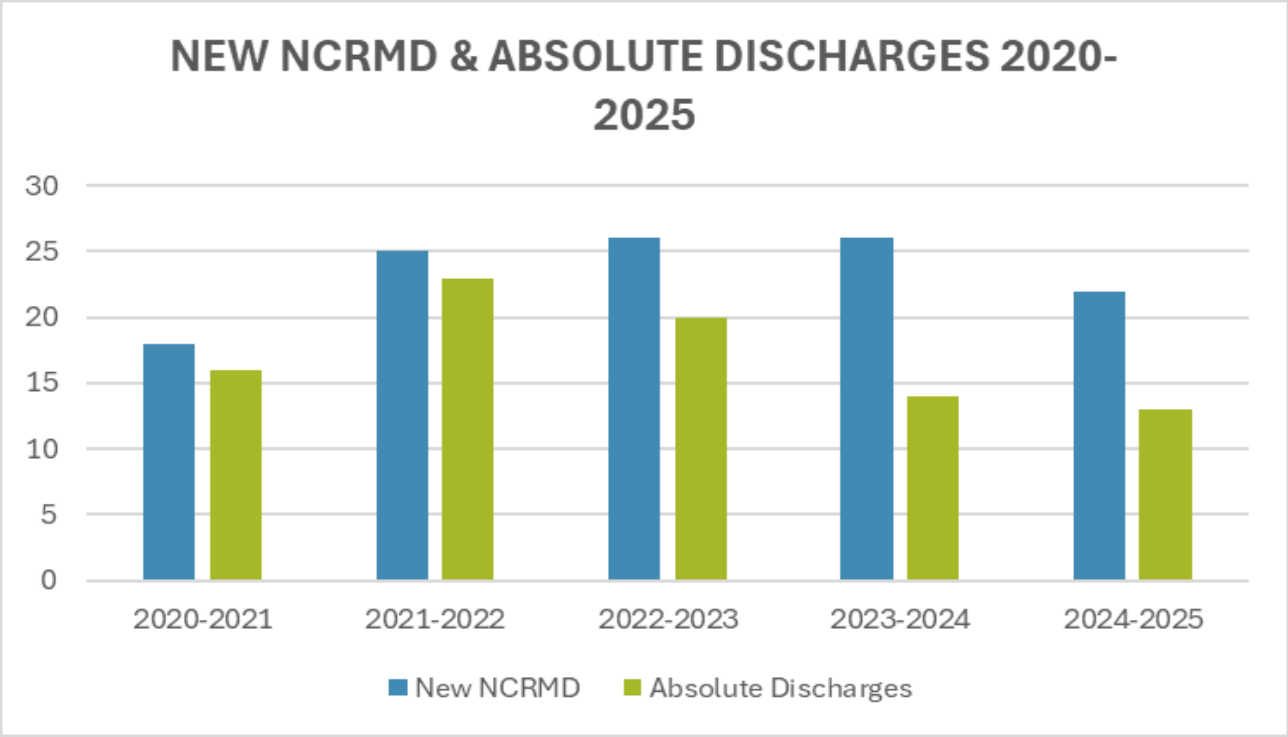



Figure 6

The next graph (Figure 7) shows the number of new unfit accused, as well as the number of accused where the Board was of the opinion that the individual was fit to stand trial and ordered that they be sent back to court for a trial of the issue. It is not clear yet whether the decrease in the number of new unfit cases deferred to the Board is an anomaly or will be sustained.

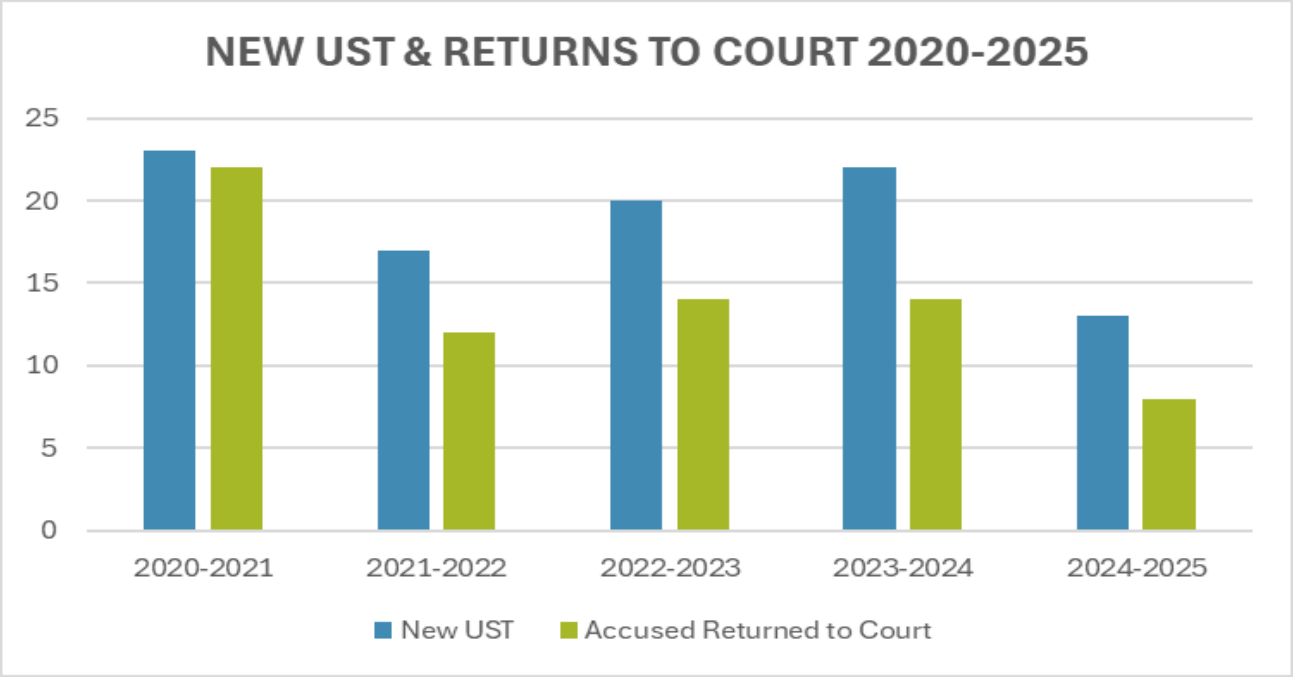
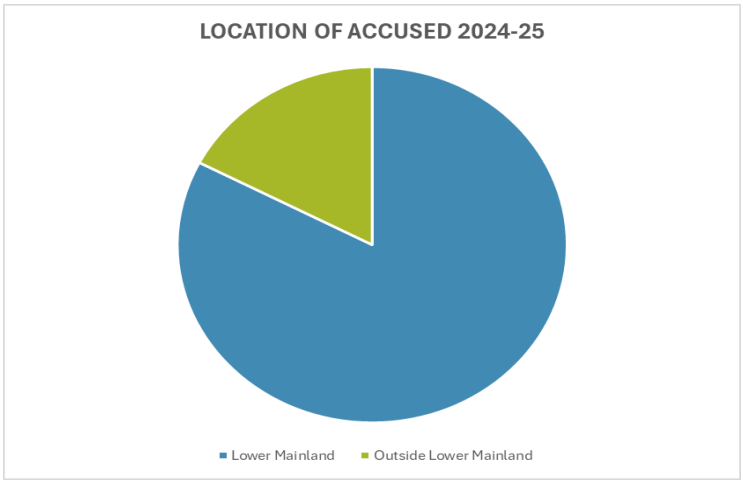


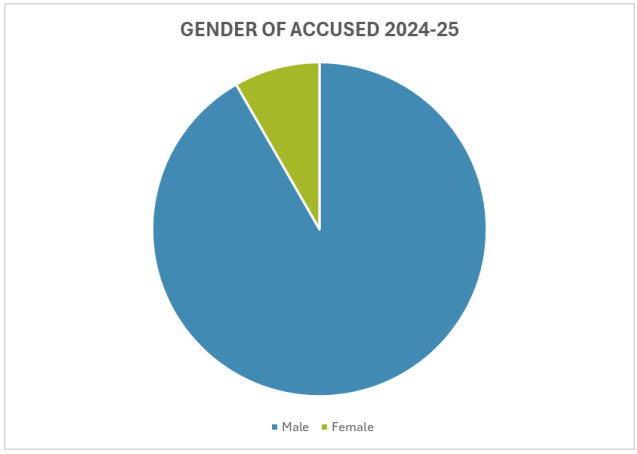

Figure 7

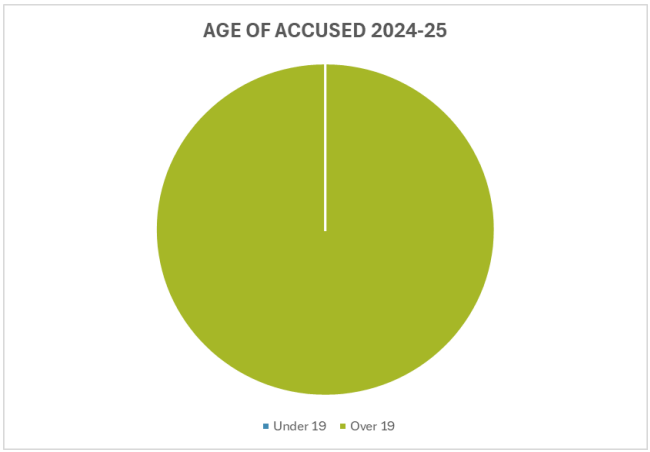
### *7. Accused Demographic Breakdown*

The profile of the accused subject to Board oversight has remained relatively stable over the last five years. As illustrated in Figures 8-1 to 8-3, below, most accused under the Board's jurisdiction are male, over 18, and are residing in the Lower Mainland[1]. At present, the Board has no way of knowing how many of the persons under its jurisdiction are Indigenous unless the patient self-identifies or there are indications in their personal or psychiatric history that specifies that may be the case. The Board is working with the Director of Forensic Psychiatric Services on improving the reporting of Indigeneity in psychiatric and social work reports prepared for the Board. Anecdotally, the Board estimates that approximately one in five (20%) forensic patients have Indigenous ancestry.

[1] It is not surprising that most accused reside in the Lower Mainland as the Province's only forensic psychiatric hospital (where all in-custody accused reside) is located in Coquitlam.




Figures 8-1 to 8-3

As was first reported last year, approximately 5% of accused require a court-certified interpreter to be present at hearings for accused whose first language was Mandarin, Cantonese, Spanish, Punjabi, Vietnamese, Laotian, Turkish, Tamil or Amharic.

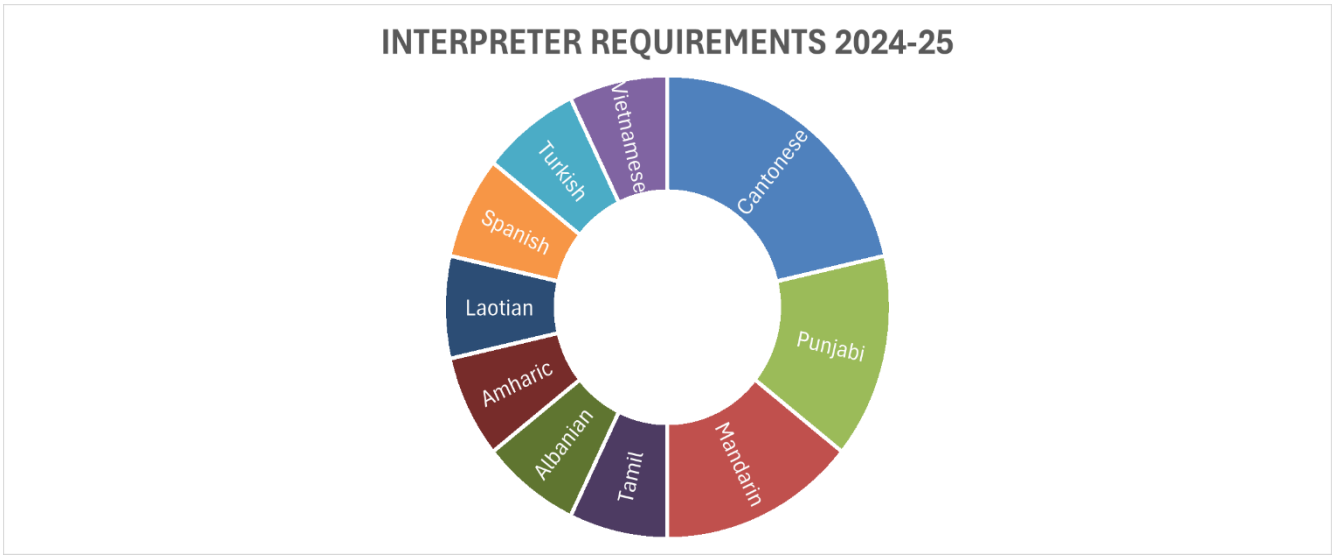



Figure 8-4

Last fiscal year the Board reported on the number of accused persons who were subject to Board oversight but were not in custody at the Forensic Psychiatric Hospital in Coquitlam. Rather they were managed by a treatment team from one of the province's six forensic outpatient clinics. It remains the case that the Surrey clinic managed the most accused persons followed by Victoria, Vancouver and Kamloops. This year the Nanaimo clinic managed more patients than Prince George.

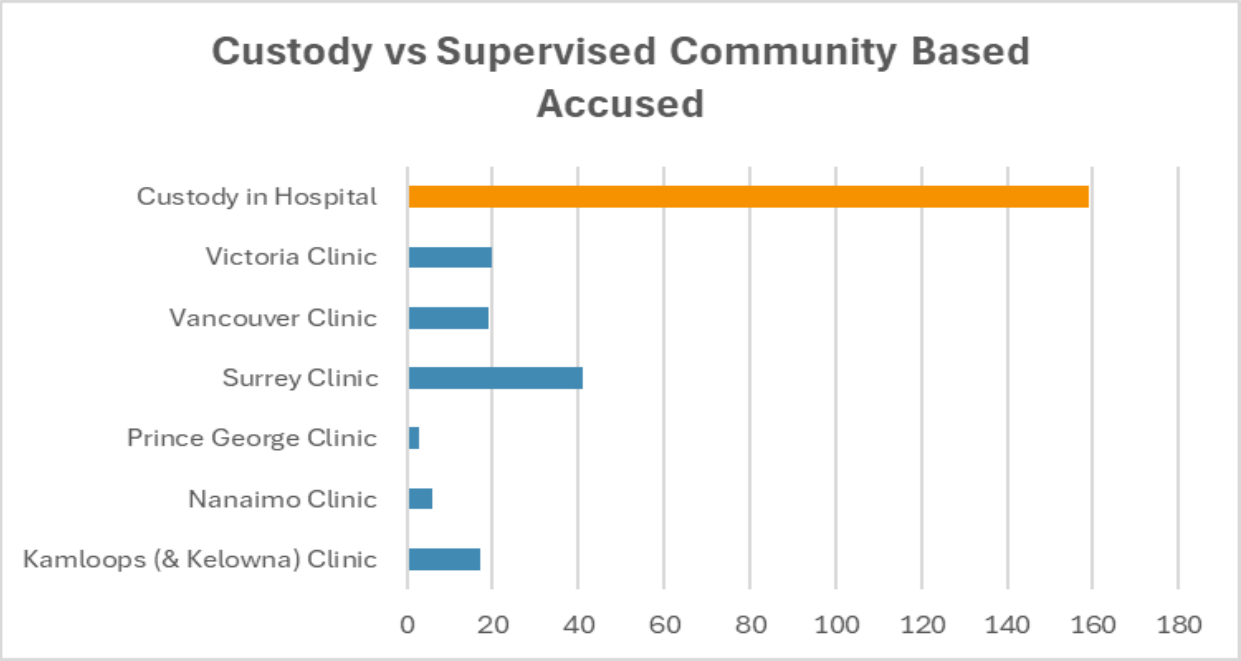


Figure 8-5

### *8. Total Hearings by Type*

Figure 9-1 below depicts the total number of Review Board hearings per year, as well as the breakdown by type. Approximately two thirds of all hearings are held annually. In some cases, the Board orders that the next hearing is to occur sooner than the normal 12 months (these hearings are known as short order hearings).

Additional hearings are mandated when the accused's liberty has been restricted by the Director for more than seven days, or where the court has ordered that an accused be returned to custody for breaching the terms of the Board's disposition/order. As can be seen in Figure 9-2, this year, enforcement order hearings declined, while the number of hearings initiated by the Board on its own motion increased. This trend suggests that the Board's proactive use of its discretionary authority may have played a role in preventing potential incidents of concern in the community. Additionally, there was a rise in hearings triggered by the Director's decisions to restrict the liberties of accused individuals**.**

Given the number of different factors driving the need to convene a hearing, it is difficult for the Board to project for budget purposes the total cost of convening hearings each year.

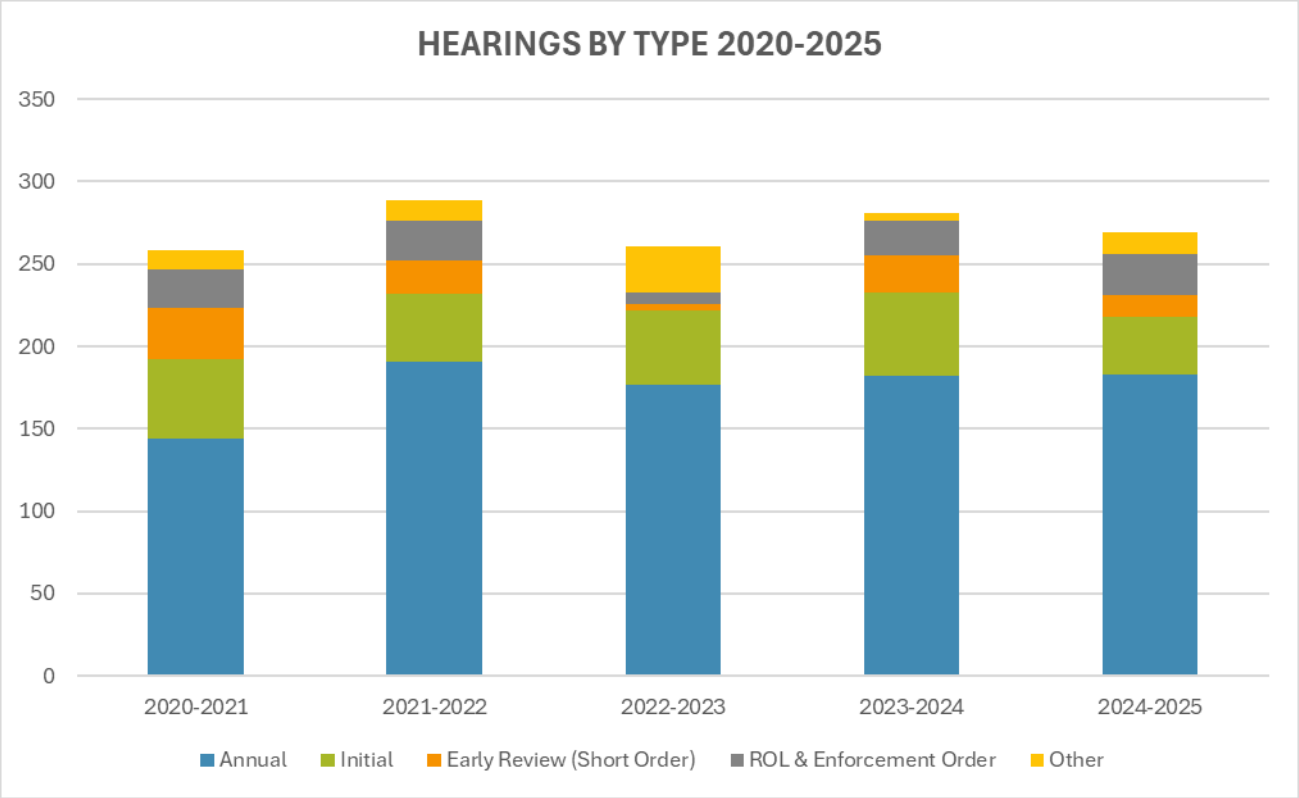



Figure 9-1

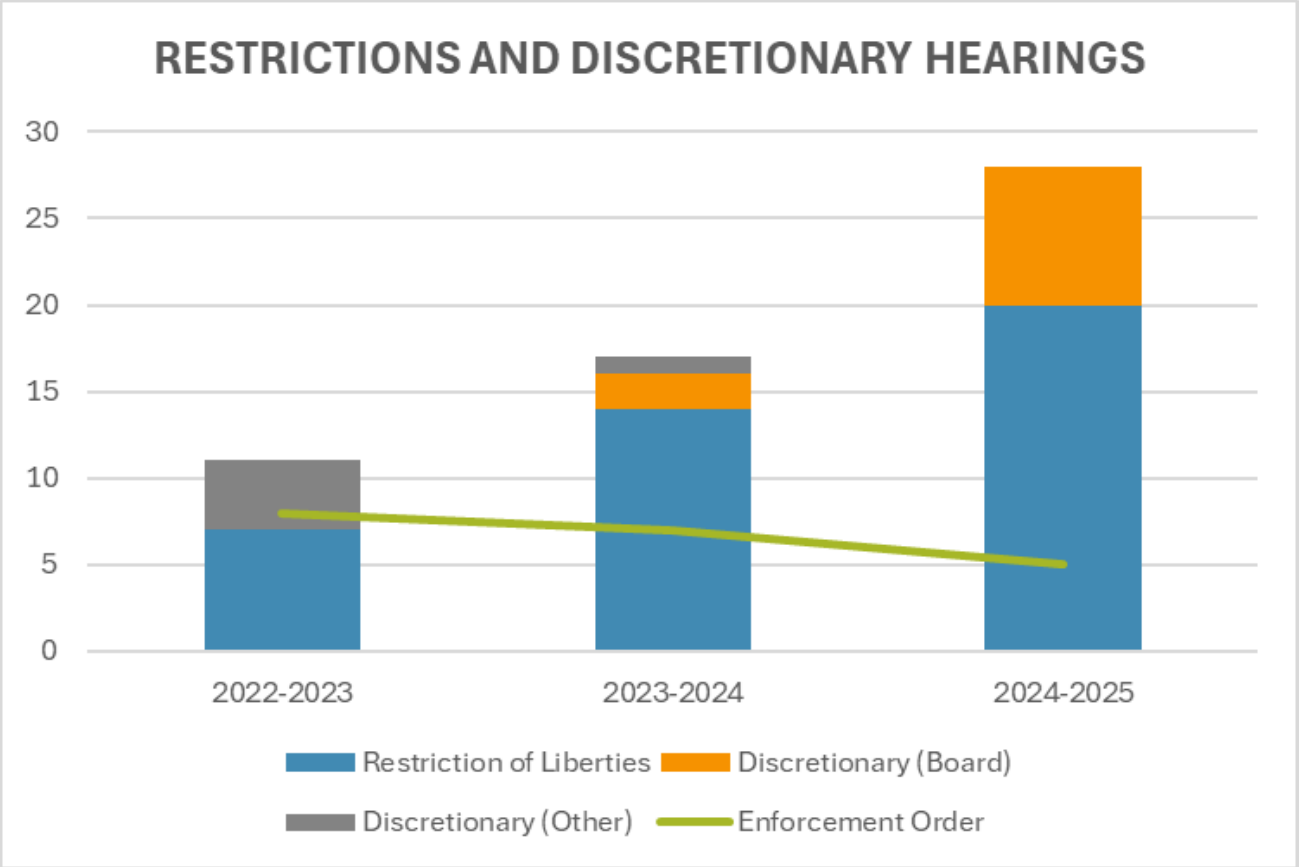



Figure 9-2

### *9. Hearing Method*

Figure 10-1 demonstrates the breakdown of hearings by mode for fiscal years 2020-2025. The Board's last report noted that there had been a significant shift away from video hearings and a return, for the most part, to hearings occurring in-person.

In the 2024-25 fiscal year, the Board was required to hold more in-person hearings than at any time since the onset of the pandemic. Put another way, there are far fewer accused who are agreeable to have their hearing by video. The *Criminal Code* states that, absent an accused's agreement, the Board may not hear a matter by videoconference. This has serious budget implications for the Board as all panel members, and some staff must travel to the hearing location. The budgetary pressure on the Board driven by the need for in-person hearings is evident in Figure 10-2 (below).

The Board is also obligated to record the hearing for appeal purposes. The Board therefore bears the cost of audio and video recording every hearing. The silver lining is that Review Board hearings are more accessible than ever; members of the public interested in the hearing (including victims, media, elected officials, Indigenous governments and others) may access the hearing, in person, or by video link.

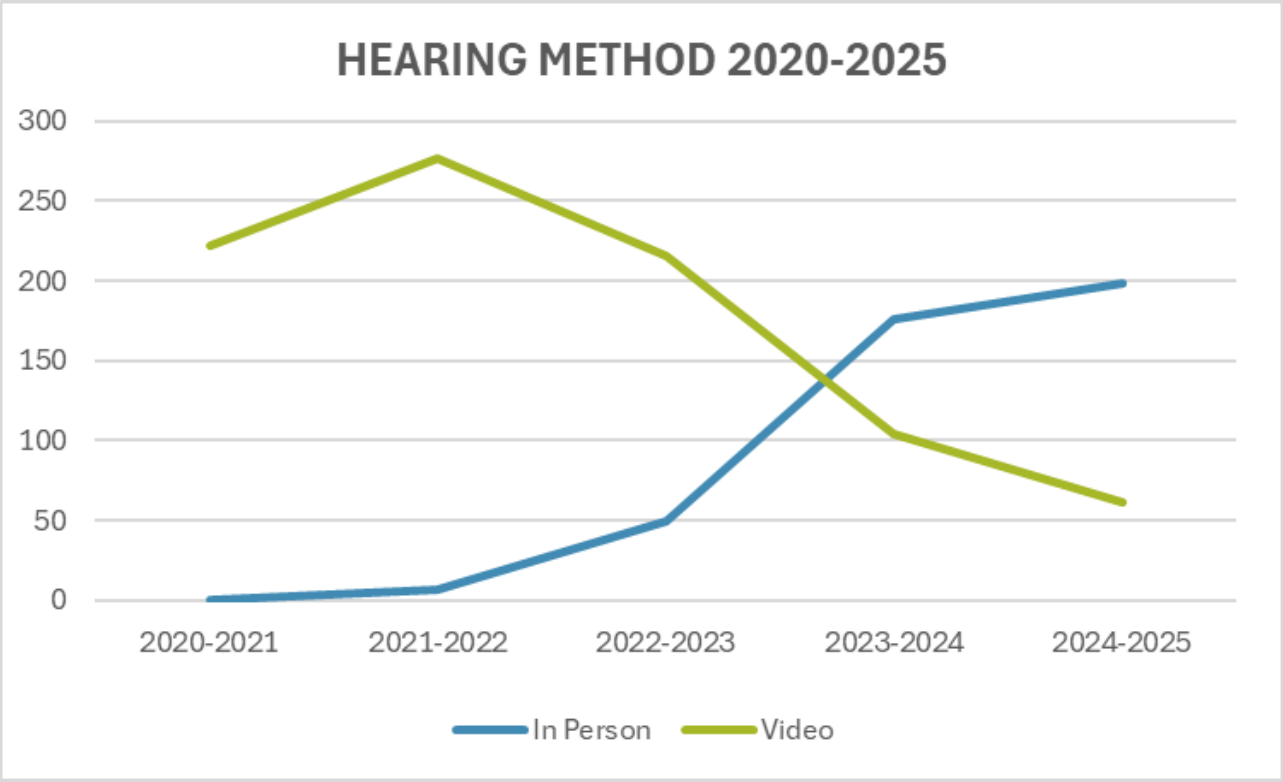



Figure 10 -1

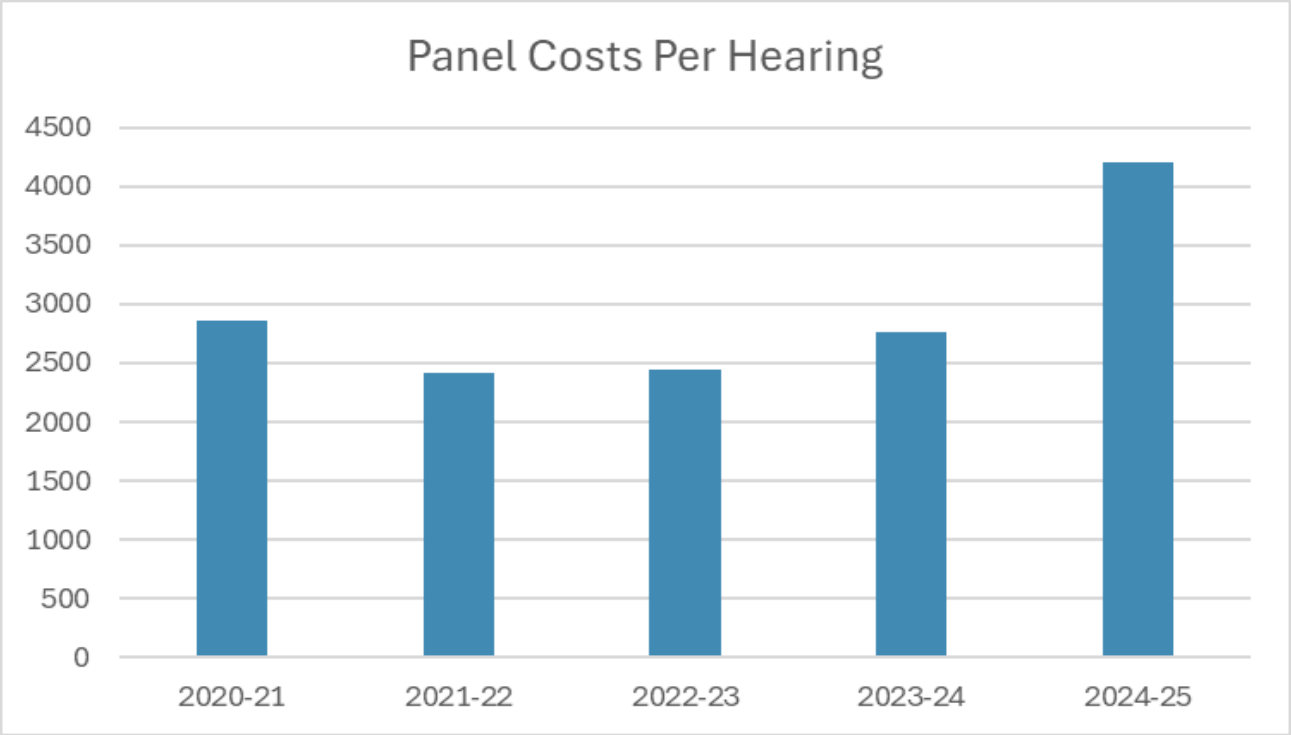



Figure 10-2

For greater clarity, over the 2024-25 fiscal year the Board held **201** in person hearings. Of those, **181** occurred in the Lower Mainland (including hearings for accused who are resident in Vancouver, Surrey and at the Forensic Psychiatric Hospital in Coquitlam). The remaining **20** in-person hearings occurred in locations outside of the Lower Mainland including on Vancouver Island, in the Kootenay region, and in the Okanagan. (Figure 10-3)

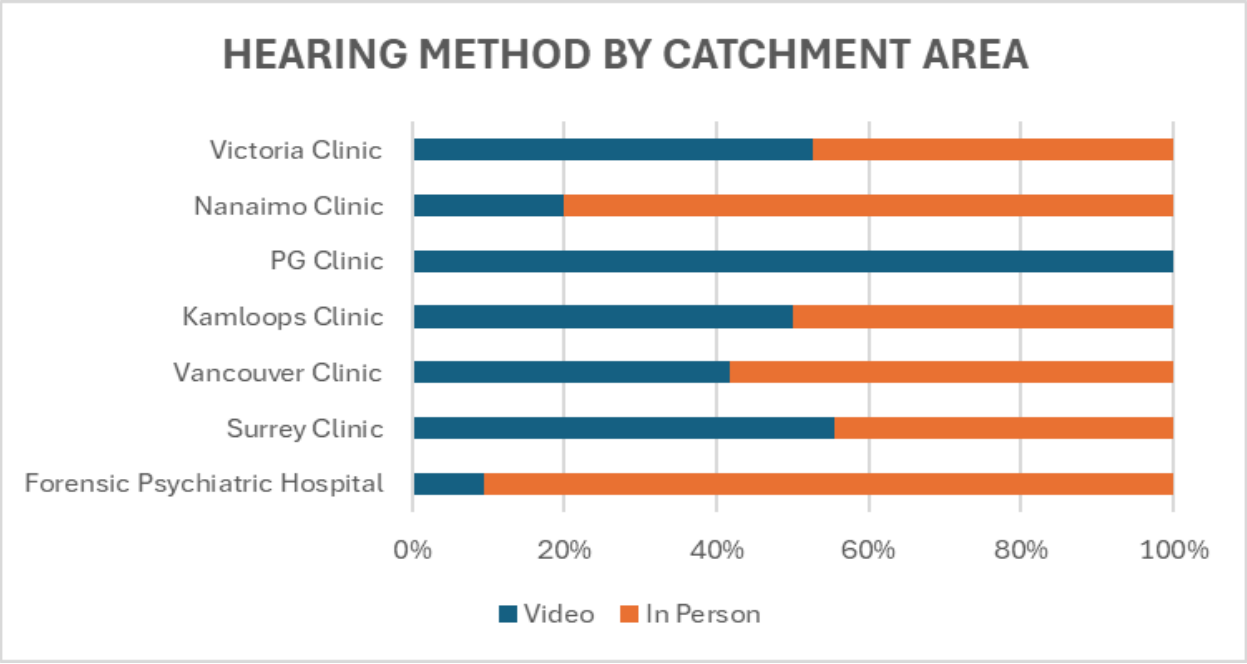



Figure 10-3

## *10. Scheduled Matters that do not proceed*

In fiscal year 2024-25, 27% of matters scheduled to be heard did not proceed on the date first set. There are a variety of reasons for a matter not proceeding as scheduled.

Psychiatric assessments (i.e., reports) are mandatory evidence without which a hearing before the Board cannot occur. In the 2023-24 annual report, the Board identified the significant budget impact when reports are filed late and hearings do not proceed, including the costs incurred by the Board in compensating members for their time, travel costs, costs of providing accused with the new notice of hearing, costs to victims who have made plans to attend the hearing, etc. This fiscal year there were fewer instances where the late filing of a psychiatric report delayed the hearing. Early indications are that the Board's use of its power to summon witnesses, and to compel them to attend a hearing and bring their report, resulted in fewer late reports.[2]

Other reasons that matters do not proceed as scheduled include those cases where an early hearing is mandated due to restrictions that the Person in Charge of the hospital or the court has imposed on an accused by directing their return to hospital from a community placement, or when the Board has made a shorter than usual order to follow the accused's progress. In all the above-described scenarios, multiple hearings are being scheduled for a single accused person in a fiscal year.

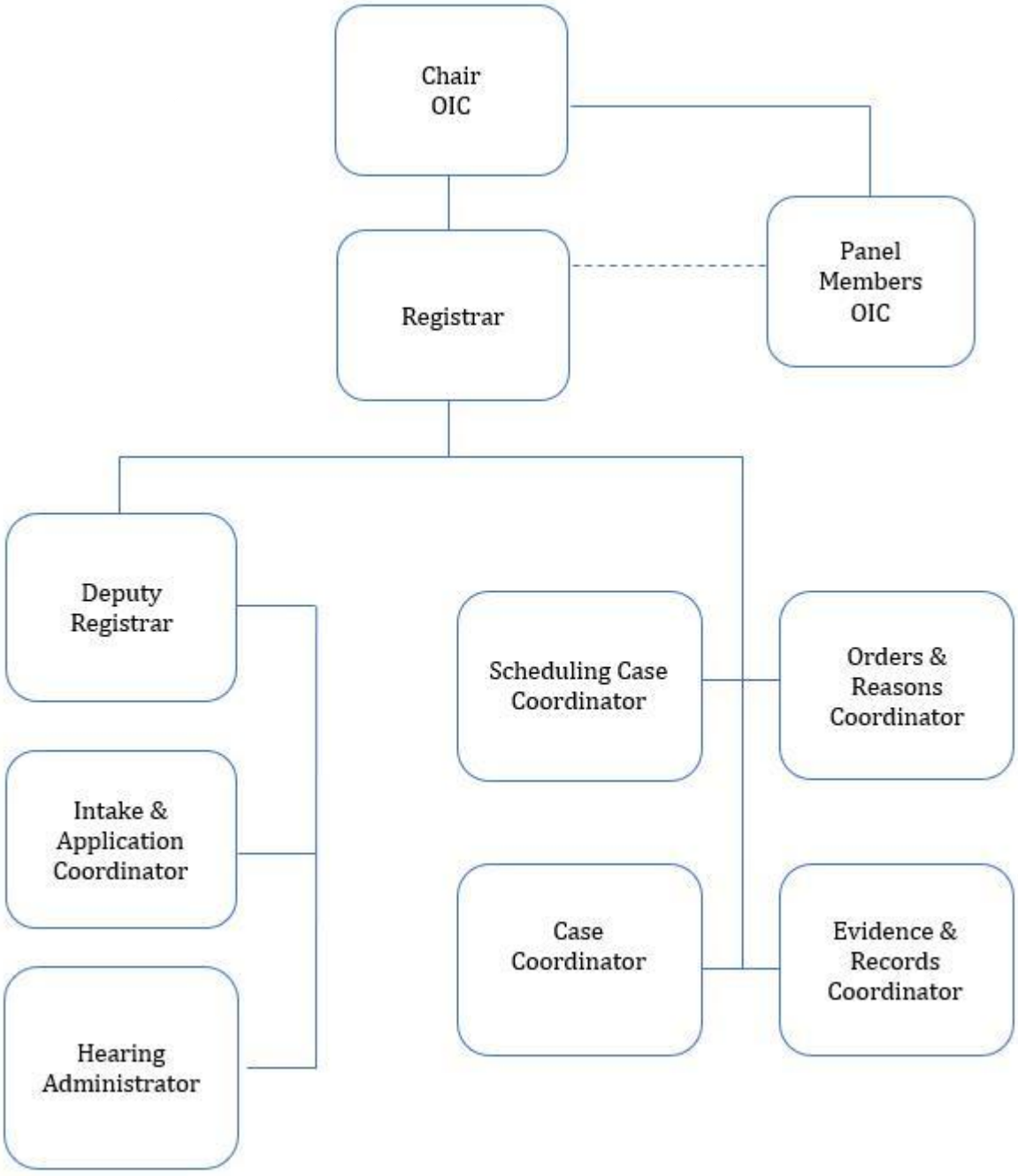
Each time a matter is set for hearing, Registry staff prepare the evidence and set the matter down based on the availability of the parties, their witnesses, and Board members. Then, the accused and their representatives, Crown counsel and the assigned panel of the Board review the record of evidence and prepare for the hearings (it is not unusual for a record to consist of more than one thousand pages of documentation). When matters do not proceed, that preparatory work is for naught. Staff, a new panel of Board members, and the parties appearing before the Board must expend further resources when a matter is rescheduled.

[2] The Board's Chairperson issued four summonses to compel psychiatrists to attend and bring their assessment reports to the hearing.

# BC Review Board Members active at March 31, 2025

| | |
|---|---|
| Chair | Brenda L. Edwards |
| Vice Chair | Joanna Nefs |
| Alternate Chairs | Ingrid Friesen<br>Jim Threlfall<br>Steven Boorne<br>James Deitch<br>Aamna Afsar<br>Paul Singh<br>Dr. Michelle Lawrence<br>Donnaree Nygard<br>John Gordon, KC |
| Psychiatrists | Dr. Ron Stevenson<br>Dr. Linda Grasswick<br>Dr. Jeanette Smith<br>Dr. Sam Iskander<br>Dr. Sandi Culo<br>Dr. Roy O'Shaughnessy<br>Dr. Paul Janke<br>Dr. Andrew Kolchak<br>Dr. George Wiehahn<br>Dr. M. Stefanelli<br>Dr. R. Miller |
| Public Members | Dr. Kim Polowek<br>Paula Cayley<br>Alan Markwart<br>Dr. Lynda Murdoch<br>Jeremy Berland<br>Penny Acton<br>Doug LePard<br>Patrick Golding<br>Dr. Barry Cooper<br>Randy Puetz |

# Organizational Chart at March 31, 2025



## BC Review Board Budget & Expenditure Overview Fiscal Year 2024-25

| FY 2024/25 Delegation | FY 2024/25 Expenditures | FY 2024/25 Variance |
|---|---|---|
| $1,995,200 | $2,323,875 | $328,675 |

**SIGNIFICANT VARIANCE EXPLANATIONS 2024-2025:**

As has been the case since the onset of the COVID-19 pandemic, the Board continues to hold proceedings via video where the accused is agreeable. However, travel expenditures increased over the fiscal year as more accused are seeking in-person hearings than in the recent past and panel members are located throughout the province. The main budget pressures causing over-expenditure are expenditures to accommodate rescheduling matters that do not proceed when first set, travel costs associated with in-person hearings, costs associated with technology to administer the Board and legal fees incurred by the Board.

The Board reduced travel expenditure for Board members by using videoconferencing whenever possible.

As was the case last fiscal year, the Board's Registry operated with staffing shortages throughout the year. Unpaid salaries and benefits have offset some of the increasing expenditures but at great personal cost to the remaining employees who work to cover the shortfall in staffing.