

Victim Impact Statement – Not Criminally Responsible

If a person is found to have committed an act that constitutes an offence, but lacked the capacity to appreciate what they did or know that it was wrong due to a mental disorder at the time, the court makes a special verdict of "Not Criminally Responsible on Account of Mental Disorder" (NCR). They are neither convicted, nor acquitted. The verdict does not constitute an acquittal; it represents a unique third option. An accused that is found NCR is diverted to a provincial Review Board.

Review Boards are specialized committees chaired by a judge, or an individual qualified for a judicial appointment, and comprised of at least four other members, one of which must be entitled under the laws of the particular province to practice psychiatry. The Review Board will determine the appropriate disposition for the accused. While the accused is not criminally responsible for his or her behaviour, the public may still require protection from future dangerous behaviour. Therefore, the goal of a Review Board is to conduct an individual assessment of the accused and subsequently craft a disposition that both protects the public and attempts to provide opportunities to treat the underlying mental disorder. Under the current law, a Review Board can make one of three possible decisions:

- 1) **An absolute discharge.** If the person does not pose a significant threat to public safety, the court or Review Board orders an absolute discharge, the NCR accused is released from further involvement with the system for the specific offence that led to the NCR verdict;
- 2) **A conditional discharge.** If the court or Board orders a conditional discharge, the accused is supervised in the community with conditions. Typical conditions ordered by a Review Board during a conditional discharge specify that the NCR accused must reside in a particular place (e.g., group home); abstain from illegal drugs and/or alcohol; submit to urinalysis testing for prohibited substances; abide by a specified treatment plan; report to a designated person (e.g., psychiatrist) on a scheduled basis; and refrain from possessing weapons.; or,
- 3) **Detention in custody in a hospital.** If the court or Review Board orders detention, the accused will be placed in custody within a hospital. There are still times, however, when he or she will be managed within the community under conditions. The court or Review Board can delegate authority to manage the accused to the hospital where the accused has been detained. As such, the hospital administrator has the power to increase or decrease the restrictions on the NCRMD accused. Therefore, it is possible for an accused to leave hospital grounds with permission from the hospital administrator.

If the court orders a conditional discharge or detention, however, the provincial Review Board is obligated to hold a hearing and order a new disposition within 90 days. Therefore, with the exception of cases that receive an absolute discharge by the courts, Review Boards are generally responsible for determining the appropriate disposition of an accused found NCR.

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As a victim to the offence, you have the right to complete a Victim Impact Statement. The Criminal Code provides that the court or Review Board must consider the Victim Impact Statement describing the harm done or loss suffered as a result of the crime to you, the victim. Victims may submit their Victim Impact Statements to the Review Board. A copy will be given to the judge, accused or counsel for the accused, and the prosecutor. The court or Review Board shall, at the request of a victim, permit the victim to read a statement prepared, or to present the statement in any other manner that the court or Review Board considers appropriate, unless the court or Review Board is of the opinion that the reading or presentation of the statement would interfere with the proper administration of justice.

If you need any assistance in writing your Victim Impact Statement or would like to be updated on the activities of the Review Board with respect to the accused, please contact Victim Services:

St. John's	709-729-0900
Carbonear	709-945-3019 or 709-945-3046
Clarenville	709-466-5808
Marystow	709-279-3216
Gander	709-256-1028 or 709-256-1070
Grand Falls-Windsor	709-292-4544 or 709-292-4548
Corner Brook	709-637-2603 or 709-637-2465
Stephenville	709-643-6588 or 709-643-6618
Port Saunders	709-861-2147
Happy Valley-Goose Bay	709-896-0446 or 709-896-3251
Nain	709-922-2360