



BRITISH COLUMBIA REVIEW BOARD

# STRATEGIC PRIORITIES IMPLEMENTED 1997 - 2001 BY THE BRITISH COLUMBIA REVIEW BOARD

BOARD DEVELOPMENT STRATEGIES:  
BUILDING COMPETENCE, CREDIBILITY AND CAPACITY

## RECRUITMENT/SUCCESSION PLANNING

In cooperation and collaboration with the Ministry of the Attorney General's Independent Agencies Boards and Commissions Division, and Ministry of Finance's Agencies, Boards and Commissions office, the BCRB developed and implemented a comprehensive, inter-disciplinary and regionally equitable call for expressions of interest in appointment to the Board. Advertisements were placed in a wide variety of relevant professional and regional publications.

A large number of resumes were received and reviewed against the [qualifications](#) articulated here.

The number of appointees to the Board has grown from less than 10 to its current roster of 19 diverse, highly qualified, regionally representative, part-time members. The increase in membership has had the positive effect of enabling the Board to accommodate workload growth while avoiding

previously common scheduling crises and costly adjournments. This change in the Board's complement has been implemented without any overall increase in operating costs which are, of course, driven by referrals from the Courts and by the number of hearings required to be convened during a year.

A secondary benefit has been the establishment of a diverse, regionally representative 'reserve' roster or inventory of qualified applicants within the respective statutorily prescribed professional categories, from which future appointments can be selected when needed.

This collaborative process maintains quality and independence while respecting the choices and prerogatives of Cabinet.

## **ORIENTATION AND TRAINING**

The Board's orientation and training materials and on-the-job learning activities have been refocused and re-organized to ensure that hearings and decisions are consistent with natural justice and the evolving body of appellate case law. Important additions include conflict of interest and conduct expectations and guidelines.

Appointees, including potential members are also encouraged to participate in the British Columbia Council of Administrative Tribunals' (BCCAT) courses, and other training and educational opportunities.

## **MEMBER REMUNERATION**

As a result of scheduling and procedural efficiencies, (e.g. routinely scheduling three hearings per day), it has been possible to enhance the Board members' per diem remuneration structure to include consideration for preparation and writing time, without increasing the Board's overall budget allocation.

This strategy was critical to our ongoing ability to attract especially psychiatrists, as required by the Criminal Code. Their per diems were not keeping pace with BCMA rates.

Given the growth in caseload and hearings which the Board has experienced since its establishment, it may be worthwhile, from a cost perspective, to consider recruiting a few full time members to reduce our reliance on part-time members.

## **NATIONAL PARTICIPATION AND PROFILE**

The Board has become an active participant and leader in the informal Association of Provincial/Territorial Review Board Chairs. This group meets at least yearly to discuss substantive and procedural issues affecting the operation of the Review Boards and to share systemic information and experiences.

The Board is also an active participant in the somewhat moribund, legislatively mandated Federal Government's Review of the operation of Part XX.1 of the Criminal Code.

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## SERVICE DELIVERY STRATEGIES: ENHANCING RESPONSE AND RELATIONSHIPS

### INCREASING PRODUCTIVITY AND EFFICIENCY

Before 1997 the Review Board typically scheduled and conducted two hearings per day. Perhaps the most significant operational innovation since has been to schedule and conduct 3 hearings per day. In the three preceding years the Board had experienced caseload growth from 247 cases in FY 94/95, to 289 cases in FY 96/97. Corresponding to caseload growth, the number of hearings grew from 336 in FY 94/95 to 506 in FY 96/97: a total growth of 51% in 3 years.

In 1997 the Board began to routinely schedule 3 hearings per day. The result has been to accommodate a potential/theoretical 50% increase in productivity without a corresponding impact on budget. It is this potential which has enabled us to augment members' per diem fees in consideration of preparation, travel and writing time, without increasing our overall budget allocation in this area.

Feedback from stakeholders also suggests this scheduling change, while increasing the workload burden on adjudicators, staff and indeed, parties, has in fact resulted in more focused, streamlined, hearings.

## **PROCEDURAL INNOVATIONS AND ENHANCEMENTS**

Standardization of the formats and contents of the Board's Dispositions through the use of Disposition Memoranda and checklists has resulted in greater uniformity in the Board's orders without of course deterring discretion. More importantly it has contributed to the capacity to generate and provide parties with orders in a timely and efficient manner. This important aspect of service to our publics has been further enhanced by the implementation of electronic networking between the Board office, its members and some stakeholders, enabling swift turnaround and finalization of Orders and Reasons for Disposition.

Panel chairs and board members have also been provided with clear expectations as to the time lines (45 days) intended to govern the production, editing, approval and distribution of Reasons for Disposition; though enforcement of these expectations could be somewhat controversial.

## **STAKEHOLDER PARTICIPATION AND RELATIONSHIPS**

In the interest of fostering informed, respectful and viable operational relationships with its stakeholders, e.g. Crown, Defence Bar, Adult Forensic Psychiatric Services, the Board, in 1997, instituted monthly stakeholder consultation meetings and discussions. The mandate of the process was, by agreement, restricted to matters of operational policy, scheduling and procedural problem solving rather than decision making or revisiting actual cases by anecdote.

While not without its expected differences in professional perspectives, orientation and interests, the process provides a forum to discuss and collaborate on significant procedural change in such areas as scheduling and case management. Currently the stakeholders group is, in a consultative manner, considering a set of Rules of Procedure which are intended to govern Review Board hearings and pre-hearing processes.

The Board's Registrar has also been working with AFPS on the revision of a longstanding M.O.U. respecting facilities and case management expectations between the two entities.

The recent appointment of a CEO for the Forensic Psychiatric Services Commission is already having a positive influence on our stakeholder relations and issues.

## PUBLIC COMMUNICATIONS

To ensure full understanding and transparency of the Board's mandate and operations, a user-friendly information brochure was developed and broadly disseminated throughout the Province. Now in its second printing, the brochure is also delivered along with the Notices which are provided to every accused in advance of his/her Review Board hearing. The brochure is further supported by province-wide toll free telephone access to ensure the fullest possible information and understanding is available to the Board's vulnerable consumer population.

More detailed information, including key Review Board decisions, are available via this website. Since 2000, the vast majority of the BCRB's decisions are also published, as a unique service to the Bar and public, via the Quicklaw database.

Special communications initiatives have been undertaken to improve understanding about the Board and about the Courts' specific obligations in respect of documentation relative to new NCRMD and Unfit To Stand Trial accused persons, with provincial court clerks, administrators and judges throughout the province.

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## MANAGEMENT AND ADMINISTRATION STRATEGIES: INCREASING EFFECTIVENESS AND EFFICIENCY

### **ORGANIZATIONAL, PLANNING AND STAFFING INITIATIVES**

To ensure organizational stability and avoid operational disruption and discontinuity, a new organizational model for the Board's central office was developed and staffed. This has included the establishment of the position of Registrar and General Counsel as senior operations manager.

Stabilization in this area resulted in the reduction, indeed, near elimination, of overtime and STIP. It has also enabled the Board to absorb caseload and hearing volume increases without increases in budgeted H.R. allocations.

An individualized, position specific, staff performance management and evaluation formation was introduced. It is reviewed and adjusted on a semi-annual basis.

Detailed performance objectives in all areas of the Board's business activities were established on a successive 3-year basis. These documents are reviewed and revised on a semi-annual basis within the 3-year cycle.

## **COST CONTAINMENT/EFFICIENCY STRATEGIES**

The Board has changed its previous practice of retaining court reporters for all of its hearings. Now, all hearings conducted in the Lower Mainland, including at the Forensic Psychiatric Hospital and in the Board's Hearing Room (76% of all hearings) are recorded electronically without the presence of a court reporter.

Although first draft Reasons for Disposition are initially transcribed by an external, contracted court reporting service, they are now transmitted, edited and finalized in-house, through electronic networking amongst Panel Chairs, Board members and staff.

Accordingly our previous expenditures in the area of court reporting at \$126,000 per annum has been reduced to \$45,000 and the process rendered more efficient.

## **CASE MANAGEMENT TECHNOLOGY**

The Board has, as of March 2001, implemented an electronic case management system (CMS). The CMS will over time ensure accuracy by automatically scheduling accused hearings within statutory time frames; produce and distribute, via the Internet, multi-month hearing schedules; produce common documents (e.g., Notice of Hearing); capture an accused's history of proceedings before the Board; enable the generation of Management data and statistics for planning, budgeting and reporting purposes. CMS should allow the Board to accommodate workload growth without significant increases in budgets or expenditures.

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## KEY PRIORITIES/OBJECTIVES FOR 2001-02

Our priorities for this fiscal year include further staffing and organizational refinements with a view to maximizing the allocation of our human and fiscal resources toward case management and service delivery, rather than to administrative functions; refining and enhancing the electronic CMS.

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## KEY SYSTEMIC ISSUES

### RESOURCE BARRIERS TO FULL IMPLEMENTATION OF THE LAW

As a creature of statute the Review Boards' authorities are limited and circumscribed by Part XX.1 of the Criminal Code. Among its other criteria and considerations the Board is admonished to make dispositions which are "the least onerous and least restrictive to the accused": S672.54 C.C.

As long as any risk which an accused may pose to the safety of the public can be duly managed, the policy underlying Part XX.1 clearly favours community rather than custodial care. In far too many cases the only justification for detaining an accused is the non-availability of an appropriate residential resource. Where the absence of such resources is the sole basis for denying a mentally disordered accused person's liberties, preventing the Board from complying with the spirit and intent of the legislation, it is arguable that such an individual is deprived of his or her rights under S7 of the Charter.

Providing an adequate network of supervised community accommodation is needed to fully implement the policy underpinning the legislation. It would not only afford certain accused an enhanced quality of life, but would arguably be more cost effective than unnecessary hospital based custodial care costing between \$570 and \$600 per day.

## **APPROPRIATENESS OF AVAILABLE RESOURCES**

The Board has encountered a number of accused persons who cannot be effectively treated via detention in the Forensic Psychiatric Hospital, despite the fact that they may indeed pose a risk to themselves or others. These include individuals who suffer from a mental handicap, from organic brain damage, F.A.S./E., traumatic brain injury, or from personality disorders. Such individuals are frequently 'criminalized' and transferred into the forensic/criminal justice system either because of a lack of appropriate resources or because they have exhausted those resources which do exist.

Such persons often spend lengthy periods in unnecessarily restrictive and costly hospital based custodial care for relatively minor offences, with little promise or hope of clinical progress.

A clarification of various inter-ministry and legislative mandates, responsibilities and resources as among MCF, MOH, and MSG vis a vis such individuals is urgently needed. The Board Chair stands prepared to participate in such policy discussions, as appropriate.

## **EDUCATION AND TRAINING ISSUES**

Finally it has been our observation that there would be some value in enhanced training or educational opportunities for Crown and Defense counsel, Judges, and psychiatric assessors in the interpretation and application of the law relating to mentally disordered accused persons; in particular unfitness to stand trial (S2 C.C.) and criminal responsibility (S16 C.C.). We see a number of issues with how the Courts deal with such cases; including the potential diversion of many minor cases at the prosecution stage as anticipated by the Mental Disorder Amendments.

As a society and as a government we should be concerned if the misapplication of the law results in criminal sanctions or restrictions, which potentially last much longer than if the accused had simply been found guilty.

The Board Chair has in the past recommended exploration of the establishment of a specialized mental disorder court in B.C. along the basis of a model in place and now being evaluated in Toronto.

The Chair is also currently involved in a regionally representative working group convened by the

Canadian Judicial Institute in Ottawa to develop a generic and relevant training module for judges on the Mentally Disordered Offender.

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