

CANADIAN RESOURCE
CENTRE FOR VICTIMS
OF CRIME



CENTRE CANADIEN DE
RESSOURCES POUR LES
VICTIMES DE CRIMES

Experiences of Victims

OF MENTALLY ILL
OFFENDERS IN CANADA



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DISCLAIMER: *This e-resource is intended as a general guide for people who may be harmed by crime committed by someone who is mentally ill. Please do not hesitate to contact our office if you require clarification, or for a referral to an agency in your community that may be able to provide support services to you. We encourage all victims to discuss the information provided in this paper with the Crown prosecutor in their case or victim services, prior to undertaking any action.*

CONTENT WARNING: *There are several personal stories included throughout this document. These stories may contain information or details that some readers may find disturbing, or even traumatizing.*

Some names and identifying details have been changed to protect the privacy of individuals.

I. Introduction

The purpose of this e-resource is to offer information and increased understanding to individuals and families who have been impacted by a crime committed by someone who is mentally ill. It focuses on victims' experiences and explains the hospital/forensic mental health system to persons who are entering the system for the first time. Victims of such crimes have identified that one of the biggest hurdles in their understanding of the process is that while the accused physically committed the crime, he/she is not held accountable in the way that other offenders are in the criminal justice system. The person who committed the crime is diverted into the forensic mental health system, not a prison. The individual you know as the offender becomes a patient, not an inmate, and is treated by nurses, social workers and psychiatrists. In different regions of the country, the person who committed the crime may be referred to as "the patient" or "the accused" or both.

Throughout this document, information is provided about provincial and territorial Review Boards (Review Boards), the dispositions imposed (which can include detention in a mental health facility and treatment) on the accused, or patient, as they are now referred to in many jurisdictions, and the victims' rights and roles within this system. As well, frequently asked questions are answered, and information is provided to help victims find assistance and access supports near them.

II. Mental illness and the Criminal Code of Canada

It is a fundamental principle of the Canadian criminal justice system that an accused must be able to understand that his/her behaviour was wrong in order to be found guilty of an offence. In other words, not only does he/she have to be able to realize that their behaviour is wrong, he/she must also appreciate that the act(s) they committed matches that behaviour. For example, a person can be so delusional that they believe their action is right or justified. If someone, because of a mental illness, does not understand what he/she did or was not aware it was wrong, he/she cannot be held criminally responsible even though they knowingly committed the act. The meaning of the word "wrong" was determined by *R. v. Chaulk* [1990] 3 S.C.R. which held that "wrong" was NOT restricted to "legally wrong" but to "morally wrong" (a behaviour that does not conform to normal and reasonable standards of society) as well.

According to Section 16 of the *Criminal Code*:

*No person is criminally responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong.*¹

In Canada, it is important to note that only a small group of accused persons actually raise the issue of mental illness and even fewer meet the legal threshold. From 2005/6 to 2011/12 in Canada, **these cases represented less than 0.09% of adult criminal court cases**. There were a total of 1,908 completed cases where at least one charge received a final decision of not criminally responsible on account of mental disorder (NCRMD), while there were a total of 2,262,395 completed non-NCRMD cases.² In cases where mental illness is raised by the accused, the

¹ *Criminal Code*, R.S.C 1985, c. C-46, s. 16(1).

² Zoran Miladinovic and Jennifer Lukassen, "Verdicts of not criminally responsible on account of mental disorder in adult criminal courts, 2005/2006-2011/2012", Statistics Canada. Accessed online at: <http://www.statcan.gc.ca/pub/85-002-x/2014001/article/14085-eng.htm#>

accused can be found NCRMD, or unfit to stand trial (UST)³. NCRMD is where an accused is found to be incapable of understanding the wrongness of their actions. UST is where the accused is unable to understand the trial proceedings or communicate with their lawyer.⁴ It is important to note that a person found UST may eventually be transferred back to the criminal justice system, where he/she may go to trial, or may be found NCRMD.

While an accused found NCRMD by a court is not convicted in the usual sense, he/she is also not acquitted. Rather, the accused is found to have committed the crime but because of the mental disorder, is not responsible in the same way other offenders are.

An accused that is found NCRMD is removed from the criminal justice process and diverted to a provincial or territorial Review Board, established pursuant to section 672.38 of the *Criminal Code*. Review Boards are special tribunals chaired by a judge, and comprised of at least four other members, one of whom must be a licensed psychiatrist.⁵

The rationale for this separate process is that, while the accused is not criminally responsible for his or her behaviour, he/she may still be a risk to the public.⁶ The Review Board, therefore, considers both the mental health of the patient and the safety of the public.

III. Common reactions from victims

It is common for victims, including victims of persons found NCRMD or UST, to wonder why they were victimized or why they were the target of this behaviour. If you are a victim, a family member, a neighbour, a friend, or a work colleague, you have likely been deeply affected. It can be very difficult to make sense of the situation and it is natural to feel a range of emotions as a result.

Like other victims of crime, many people who have been the victim in a case where the accused is found UST or NCRMD report feeling anxious or worried that they could be victimized again. Victims may be angry that the patient was in such a state to commit the crime when they should have been on medication, in treatment, or under close supervision. Some people may be angry that the individual is not being punished and sent to prison.

A large number of victims are family members of the mentally ill person. This is often a difficult situation to manage because victims are caught between caring for the patient and wanting to help them recover while at the same time needing to manage their own and their family's safety. Most victims speak about the frustration they feel in this situation. Family members may be frustrated that they were not able to find help for their loved one before the incident.

Victims may find it helpful to learn more about the forensic mental health system and the requirements under the law for a person who has been found NCRMD or UST. Doing so can help you be better prepared to navigate your way through this system, understand decisions made by doctors and the Review Board, and to seek supports when you may require them.

³ *Criminal Code*, R.S.C 1985, c. C-46, s. 2

⁴ Latimer, Jeff. "The Review Board Systems in Canada: An Overview of Results from the Mentally Disordered Accused Data Collection Study" (Department of Justice Canada, 2006)

⁵ Latimer, Jeff. "The Review Board Systems in Canada: An Overview of Results from the Mentally Disordered Accused Data Collection Study" (Department of Justice Canada, 2006)

⁶ Latimer, Jeff. "The Review Board Systems in Canada: An Overview of Results from the Mentally Disordered Accused Data Collection Study" (Department of Justice Canada, 2006)



Lori's STORY

My two and a half year old son was murdered in 1997 while he was playing with his best friend. Our neighbour came out of her house with a large kitchen knife tucked under her cape and stabbed my little boy 12 times.

My beautiful boy died as a result of his injuries and the offender, who was 60 years old at the time of the act, suffered from a serious mental illness called paranoid schizophrenia. Her delusions led her to believe that the spirit of her own dead son lived within my son. She stabbed him numerous times to release her son's spirit. She was found not criminally responsible on account of mental disorder (NCRMD).

The accused had a history of erratic behaviour. Over the years, she had come in contact with hospitals, various doctors and psychiatrists, and the police, but she was never properly assessed or treated. We had called the police to our home more than a dozen times with the hope of having her apprehended and assessed. Her daughter also tried, without success, to have her mother apprehended, assessed, and put into treatment, but she, too, continually hit barriers.

In our initial meetings with the Crown, I recall a charge of first-degree murder. Later, when the defence entered a plea of NCR, it was a friend, a criminal defence lawyer, who worked tirelessly to help me understand what this meant. No one within the criminal justice system clearly explained this to me. A forensic psychiatrist did try to explain her mental state. We were told we could attend her Review Board hearings. That is about all we were told. We have never attended a hearing but we were usually, but not always, informed of the disposition. We did not feel the need to attend; and I feared that seeing the accused, who remained delusional, would be traumatizing. The Crown did request that the accused not be allowed to enter in our community to avoid an accidental run in. I did submit a written victim impact statement some 13 years later, given our lawyer had indicated the plan for the accused to live in the community. She was released into the community for a short time - but deteriorated and was returned to the hospital. The experience (writing the statement) was tough but I did feel it was positive as it allowed me to share my concerns, which related largely to public safety. I felt I had some information that the parties involved might not have been aware of or considered important, for example, that the accused's daughter (who they often suggested might be person in charge upon her release) was home with the accused when she walked out and killed our son.

IV. For victims: taking care of yourself

Victims often experience strong emotions related to both the crime and to the accused, who is now also a patient. It is normal to experience intense emotions following victimization. It is important to recognize the emotions and to get support if you don't feel you can cope with them.

It can be hard to find time to deal with your emotions because, as a victim, you must also deal with matters relating to the crime as well as the demands of day-to-day life. Activities such as organizing a funeral, undergoing medical treatments, or even just preparing statements for police, the courts or insurance can be draining experiences. Such activities may compound the hardships experienced in the aftermath of victimization and prolong and complicate the emotions that you are feeling in relation to what happened. The involvement with the Review Board process may add an additional layer of complexity to this experience.

As a victim, it is important to take care of yourself and other family members who may be affected by the crime. This may mean that you require outside help. Getting support from a professional may be necessary and offer balance to your own personal support network of friends and family. You can also seek counselling through victim services and community-based agencies in your area or ask your family physician for advice and support through these difficult times.

V. Dealing with grief & trauma

If the incident caused you to fear for your life or that of your loved one, your coping mechanisms may become overwhelmed. Emotional responses of helplessness, intense fear and horror may be triggered resulting in trauma. Trauma has the capacity to change the way you view the world. You may feel more vulnerable and have difficulty adjusting. Trauma leaves a new normal in its wake. There is no "back to the old me." You are permanently changed as a result of what has happened.

Victims may experience:

- » Difficulty sleeping;
- » Irritability and anger outbursts;
- » Hyper vigilance and anxiety;
- » Poor concentration;
- » Easily startled and exaggerated response;
- » Re-experiencing the event in dreams, memories and flashbacks;
- » Fear;
- » Anger at the individual and the system for not protecting you and/or your loved ones;
- » Feelings of being detached, numb; and/or
- » Feelings of guilt or shame.

Trauma changes your perception of the world and can result in losing your ability to trust. If you feel overwhelmed, need someone to talk to, or feel you need assistance coping with what has happened, it may be a good idea to seek the help of a qualified counsellor or healthcare professional. Sometimes people will try to self-medicate and/or use drugs or alcohol; this can further negatively complicate their experiences.

For some victims, grief goes hand-in-hand with trauma; the feeling that something important to you is gone forever, and that life can never really return to how it was before the crime. Grief can last for quite a long time. Sometimes grief is so powerful and overwhelming that you may feel incapacitated and unable to function mentally and physically.

You can feel grief over any situation, not just the loss of a loved one, but the loss of innocence, the loss of personal freedom, even the loss of trust in the goodness of humanity. You may grieve the person you used to be before the incident.

The dynamics of your relationship with the patient may complicate feelings of grief. This is especially true for those who wish to continue their relationship with the patient, and want to help them recover. Many family members understand that severe mental illness can be treated with medication and support.

Your relationship with them will likely have changed, and it is very normal to grieve the loss of the relationship that you once had.

It is okay to grieve. It is necessary to grieve. It is important to have both moments of solitude and moments surrounded by social supports when grieving. Talking about your feelings with compassionate friends or family members will allow you to work through the grief and also to remember the person who has died.

VI. What happens to the accused person?

If the court finds the accused person in your case is NCRMD or UST, the Court will either:

- » Hold a disposition hearing and issue an initial disposition order (this means that the court decides what is going to happen to the

accused) and the Review Board would then have 90 days from the time of the verdict to hold a hearing⁷; or

- » Refer the case to the Review Board, established under the *Criminal Code*, for disposition. The Review Board must make an initial disposition within 45 days of the verdict unless the Court extends the time up to a period of 90 days⁸.

What is the Review Board?

Under the *Criminal Code*, a Review Board has the power to make or review the disposition of accused persons who have been found UST or NCRMD. The Board is made up of at least five members⁹. The chairperson must be a judge, retired judge or person qualified to be appointed as a judge¹⁰. There must be at least one licensed psychiatrist, and the other

⁷ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.45(1)

⁸ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.45(1.1)

⁹ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.38(1)

¹⁰ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.4(1)



Carol's STORY

My 22 year-old son was sleeping on the bus he had been traveling on for over 20 hours when a passenger beside him attacked and killed him.

My son's body was desecrated. I was told of the possible NCR finding but had no idea what that meant. I feel that an individual who doesn't know the difference between right and wrong should never be released – ever. We hear all about “his remarkable, better than expected recovery” at his annual Review Board hearing. While he's in care, he's not a concern: it's after release that worries me. In my province, the hearings are not held at the hospital but at the law courts building. It is hard to hear the proceedings very well. What was not made clear to me by victim services or other criminal justice staff is that the accused/patient/killer retains the ultimate decision after he is released about whether to treat his mental illness with medication or not – he cannot be forced.

members are members of the public¹¹. When the Board sits (or meets) to review cases, at least three members must be present, including the chairperson and the psychiatrist¹².

What kinds of dispositions can the Court or the Review Board make?

The Court or the Review Board may order the following:

- » The patient may be *detained* in a psychiatric facility until the Review Board recommends a conditional or absolute discharge¹³;
- » A *conditional discharge* is when a patient may be allowed to live in the community with conditions (which may include being under the supervision of mental health officials)¹⁴;
- » An *absolute discharge* means the patient is released directly into the community with no supervision¹⁵.

Can he/she be returned to the hospital?

Each case is different. In some cases, the patient may be released into the community immediately, without any detention in a psychiatric hospital. In other cases, the patient may be kept in a hospital setting for the remainder of their lives. Other individuals may spend some time in a hospital and then be gradually released into the community.

How often will the Review Board reassess the NCRMD patient?

The Review Board must hold a hearing for patients who are sent to a psychiatric facility or who receive a conditional discharge at least once a year¹⁶, unless

the courts have deemed the patient “high-risk”. For high-risk patients, the time between reviews may be extended to three years¹⁷. However, the Review Board may review cases more frequently, if it is in the best interest of the patient and public safety to do so. These are known as “discretionary hearings”¹⁸. For victims, this means that there are annual hearings in most cases, and that they may be more frequent if the Review Board deems additional reviews are necessary. Other parties, such as the patient, their doctors, or the Crown prosecutor may also request discretionary hearings.

People found NCRMD do not have a regular sentence like those found guilty in the justice system. If someone is convicted of assault, he/she may get a 2-year sentence. If that person were found to be NCRMD, he/she may be sent to a hospital for treatment and be kept there for 7 years or he/she may be released into the community right away. It all depends on the risk the individual presents and how his/her mental illness can be managed. In some cases, those found NCRMD may be detained longer than those who are sent to prison. In other cases, they may be released sooner. People sent to prison are released at the end of their sentences regardless of whether or not they are still dangerous.

Who is present at the hearing?

Generally, the patient, the Crown or a representative, the treating psychologist/psychiatrist, a representative from the hospital where the patient is residing or to which the patient reports, and a lawyer or support person for the patient all attend a hearing as parties to the hearing, as well as the Review Board members¹⁹. There may also be caseworkers, the patient’s family, the victim or their advocate/representative who may attend with the victim or in their place. The hearings are open to the public, but may be closed if it is in the best interest of the patient²⁰.

¹¹ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.39

¹² *Criminal Code*, R.S.C 1985, c. C-46, s. 672.41

¹³ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.54(c)

¹⁴ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.54(b)

¹⁵ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.54(a)

¹⁶ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.81(1)

¹⁷ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.81(1.31)

¹⁸ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.82(1)

¹⁹ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.1(1)

²⁰ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.5(6)



Dawn's STORY

My good friend was stabbed to death at a conference by his co-worker. The accused used a ruse to gain access to my friend's room, brought a knife to the room and proceeded to stab him 28 times while he slept.

The accused then fled the scene. He went home, and later that night woke up his sister to tell her what he did. He was arrested and charged with first-degree murder, then assessed for 30 days and it was determined by the doctors that he was fit to stand trial. He was eventually found not criminally responsible. NCRMD was never presented as a possible outcome to the victims.

I have attended all but one of the Review Board hearings, but I seek the information about the hearings myself. I have paid for my transportation, accommodations and taken time off work to travel to the hearings with no reimbursement of costs. I act as an ambassador for my friend's family, as they live in Ontario and cannot often attend on short notice.

Where are hearings held?

Depending on the province/territory, hearings are held in the location where the patient resides (in a secure facility or in the community) or at a courthouse building. It should be noted that the location may not be equipped to offer separation between the victim and those attending on behalf of the patient. This may mean that waiting areas are shared, and the two parties may be in close proximity in the hearing room.

What happens at Review Board hearings?

The Review Board makes a decision about the individual's treatment, known as a disposition order. First and foremost, the Board must consider the need to protect the public²¹. To do so, the Review Board specifically focuses on the patient's progress. They consider the patient's mental condition, based on

factors such as psychiatric reports, long term care assessment reports and other relevant reports on the mental health of the patient; the patient's rights and liberties; and the patient's other needs. Some individuals may appear at the hearing to provide testimony and answer questions while other information may be contained in reports that the Review Board will have reviewed²².

The Review Board must determine whether there has been any change in the patient's circumstances since the disposition was made or reviewed. If so, the Board must determine if the change is enough to safely permit discharge of the patient. In making a disposition order, the Board has a dual role of balancing the need to protect the public from dangerous persons and addressing the needs of the patient. If there is no change, it would be expected that the patient would stay in the hospital.

²¹ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.54

²² *Criminal Code*, R.S.C 1985, c. C-46, s. 672.54

Those presenting evidence at the hearing are the witnesses. They will make submissions and can be questioned by the Review Board and counsel²³. Support people, victims, family members and any members of the public are attendees, and do not participate in the hearing (although a victim may read their victim impact statement, if they have been granted permission by the Review Board²⁴.)

After all evidence is presented and submissions have been made, the Review Board makes its disposition. The victims will not be told the disposition or reasons for it at the hearing – they must wait to receive it in writing and this usually takes a few weeks. Legally, the Board must make a disposition that is the least restrictive to the patient's freedom consistent with public safety²⁵. For example, if the Board finds the person is no longer a risk to the public and can be safely managed in the community, they must release that person.

If the Review Board orders a conditional discharge, can it place restrictions on the patient?

Yes, if the person is living in the community, the Review Board may order “conditions of release” such as living in a specified place of residence, keeping the peace and being of good behaviour, and requiring the patient to attend a community mental health centre for follow-up with a psychiatrist and other healthcare professionals (including those who may monitor medications). They may prohibit the patient from using illicit drugs and alcohol or possessing firearms or other weapons and restrict the patient from travelling within and/or outside his or her community of residence. The Board may also restrict the patient from contacting the victim or others²⁶.

What if a victim has concerns about his/her safety?

A victim who has concerns about their safety should contact victim services or the Crown's office to request a meeting to discuss their safety concerns. These concerns must be considered by the Review Board²⁷, and they may result in additional conditions being placed on the patient; these conditions may include a non-communication order, preventing them from contacting the victim²⁸.

What if the patient disobeys a condition?

If a patient disobeys conditions in the disposition order, it could result in his or her arrest, an appearance in court and/or a review of the matter by the Review Board²⁹. For example, if the patient breaks a condition by contacting a victim, the victim should call the police and the police may arrest the patient. If arrested, the patient will go before the court, which will determine whether he or she breached a condition of the disposition order. The Court could release the patient back into the community or order the detention of the patient at a hospital until there is a Review Board hearing³⁰. For example, if they find the patient broke a condition but it was minor, they may release him/her back into the community. The Review Board can hold a discretionary hearing at any time to review a matter.

²³ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.5(11)

²⁴ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.5(15.1)

²⁵ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.54

²⁶ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.54(b)

²⁷ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.542

²⁸ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.542

²⁹ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.91

³⁰ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.93(2)



Karen's STORY

An acquaintance attacked me, slit my throat, stabbed me in the chest and left me to die in a garbage can in 2007. An off-duty police officer found me and saved my life.

The offender was charged with attempt to commit murder, aggravated assault and forcible confinement, but was found not criminally responsible. Since the attack, he has been held in a mental health centre/hospital.

I remain very fearful of the offender and have never personally attended a hearing. I did submit an impact statement in the beginning but do not update it annually. A victim services advocate attends the Review Board hearings for me each year, as I do not ever want to see him again. She writes notes about what the lawyers and doctors say at the hearing and provides them to me to read over. I appreciate so much that she attends for me and keeps me updated about his psychiatric treatment and the Board's dispositions.

I do think the NCR finding was for the best, as he probably would have been released from the prison system sooner. I worry that he will not take his medications once he is released from the hospital without any supervision. I feel an increasing need for counselling as the years go by.

VII. Victims' rights in the forensic mental health system

How do victims find out about Review Board hearings?

The procedure varies by region, but generally, when the Review Board sets a date for the initial disposition hearing, it informs the victim directly or victim services, who in turn inform the victim³¹. The victim may then register if they want to know the date and location of the hearing and to be informed of future hearings. The Review Board will communicate with the victim or victim services about the dates of hearings and the outcomes of those hearings. Depending on the jurisdiction, there may be a dedicated victim service

³¹ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.5(5.1)

mandated to provide support through the Review Board process (for example, in Ontario it is the Victim Witness Assistance Program). Victims should contact their provincial/territorial Review Board or their local victim services to find out if similar support resources are available in their region, and how to contact this office.

Do victims have any role at the Review Board hearings?

Yes. If victims wish, they can prepare a written victim impact statement which is given to the Review Board Chair for distribution (which includes a copy for the patient and his/her lawyer) and consideration at the hearing³². If there is a significant change in the information on how the crime has affected them,

³² *Criminal Code*, R.S.C 1985, c. C-46, s. 672.541

victims may update their victim impact statements for subsequent Review Board hearings. The Review Board will consider victim impact statements as one of several factors in determining the disposition of the patient in NCRMD cases. It should be noted that the victim impact statement is subject to review by the Review Board, prior to being submitted at a hearing, and that it may be subject to censure if there is information that is deemed not relevant, or inflammatory. For example, if the victim calls the offender names or in extreme cases, threatens him/her, the statement may be edited. This censoring can be very upsetting to victims when it happens. The Board provides little guidance to victims about what to include in their statement, so victims who are unsure about what to include should seek assistance from the appropriate victim services agency.

May victims read their victim impact statement at Review Board hearings?

Victims can indicate, in their victim impact statements, that they would like to read their statements at Review Board hearings³³. The Review Board has discretion to permit victims to present their statements orally. Victims should be aware that they might only receive a few days notice for hearings, and that victim impact statements need to be submitted in advance of the hearing. It is recommended that any victim who feels they may want to submit a statement begin working on it in advance of the expected hearing date (generally annually, at approximately the same time of year).

If the victim has permission to attend a hearing is there any financial help available for travel?

Depending on the province or territory where the patient lives, there may be financial assistance available. Currently, British Columbia, New Brunswick, and Ontario provide financial assistance to victims to attend Review Board hearings for patients who

have been found UST or NCRMD. Information on eligibility and what expenses are covered should be confirmed with the appropriate agency prior to making travel arrangements.

Victims must make their own travel arrangements in all provinces and territories, even if the Review Board agrees to the victim's request to present his or her victim impact statement at the hearing.

What if victims only want information about Review Board outcomes?

If victims do not wish to make victim impact statements or attend hearings in person, they can still get information about the outcome of hearings. They can do so through the Review Board, the Crown's office, or the local office of their provincial/territorial victim services. Most Review Boards will release their "reasons for decision" several weeks after the hearing; these are also available upon request³⁴.

Can victims get other information about an NCRMD patient?

Yes. In addition to being notified of hearing dates, locations and outcomes, victims may also be informed of the following³⁵:

- » If the patient is on conditional discharge in the community, the name of the community;
- » If the patient is hospitalized, the name of the facility;
- » If the patient is transferred to another province for treatment purposes;
- » If the patient dies while detained in a psychiatric hospital.

Most Review Boards will publish their "reasons for decision" several weeks after the hearing. These can be obtained on request, and generally contain a great deal of information regarding the patient's treatment plan.

³³ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.5(15.1)

³⁴ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.52(3)

³⁵ *Criminal Code*, R.S.C 1985, c. C-46, s. 672.5(5.2)

Can the victim see the patient's medical records?

The victim does not have access to the patient's medical files and psychiatric reports. These are confidential personal health documents. The victim is only entitled to information on the status of the patient as outlined above. When a patient receives an absolute discharge, under privacy laws, the victim no longer has access to information. However, depending on the circumstances, the Review Board may release limited information such as notifying victims of a patient's release date.

How long will the victim continue to get notices about hearings and other information?

The victim will continue to be notified of hearings and outcomes for as long as he or she wishes to receive annual review information or until the Review Board has given the patient an absolute discharge. The onus is on the victim to notify victim services or the Review Board of any changes in address, or if there are changes in their wishes for notification.



Eric's STORY

When my son was only 20 years old, he killed a woman in her home. The victim was no stranger to him; she was his mother.

At the time of the murder, my son was in a severe psychotic state, operating in a false world created by delusions and hallucinations that had haunted him for years. He was eventually found not criminally responsible for his mother's death.

The incident shattered our family life. We had to learn to live with a loss of such magnitude while also having compassion for the person who was the killer.

My son was diagnosed with schizophrenia, a devastating, incurable brain disorder before he killed his mother. We observed his erratic behaviour and delusions, which caused him to believe that people were reading his mind, for example. He also had auditory hallucinations, which made him hear voices that did not exist but seemed very real and terrifying to him.

His siblings and I feel that he was not to blame for what happened, he was helpless and it was the illness that was to blame. Since schizophrenia can be managed with medication and psychotherapy, we have supported him and visited him often in the psychiatric hospital.

I do however believe he should never have an absolute discharge, which is a permanent release without any conditions or supervision. I think my son should be monitored for the rest of his life. I feel there is always a risk for a slip...that he might lose insight and go off his medication.

Dealing with media attention

Depending on the seriousness of the crime, there may be attention from the media surrounding a case. Victims may choose to speak to the media directly, appoint a lawyer or friend to act as a spokesperson, or may simply prefer to not respond. It is always within a victim's rights to say no to an interview or to a particular question.

Once a victim chooses to comment in the media, journalists will likely seek them out on anniversaries, when other similar cases arise, or at annual review hearings. It is recommended to speak with the Crown and victim services before sharing any information that may be deemed private. It is important to note that the media will gather information from a number of different sources, and what is reported in the end may be different from what the victim expects, may lack sensitivity or blame the victims for what happened. Victims should carefully consider their privacy (and that of their family) before engaging with the media. The CRCVC has written a guide to help victims in their interactions with the media, it can be found at <http://crcvc.ca/publications/if-the-media-calls/>

VIII. Where can victims get more information and support?

Victims should contact the appropriate Review Board for information who can link them to the appropriate victim services office or Crown prosecutor's office. They will be able to assist them or register them directly to receive the information and notification regarding Review Board hearings. They are likely the ones to keep victims apprised of important dates in the patient's file such as notices of annual review hearings, forms to complete an impact statement, and forwarding the official disposition, and the reasons for the disposition. It is recommended that victims verify that the agency will be *proactively* notifying them of any hearings or changes for the patient, as policies vary across different jurisdictions. Victim services will also be able to let victims know what assistance and support they are eligible for, and how to go about obtaining services (eligibility and services offered vary by region). The Canadian Resource Centre for Victims of Crime also provides assistance to victims of NCRMD and UST patients (1-877-232-2610).



Ann's STORY

My son was murdered by his co-worker. The accused was fit to stand trial, charged with first-degree murder but found not criminally responsible.

I did not know that this could be a possibility, did not understand what that meant and no explanation was given as to what this meant in the trial or as an outcome.

I don't want to be consumed by his life, but I guess it is important to have information provided so we know there are checks and balances, so we know that others are protected from him. I have attended most of the Board Hearings, about seven, all expenses at my own cost, costly, as I have had to travel from Ontario to Edmonton, which includes air travel, accommodation and meals. I would prefer to attend the hearing via video or tele-conference; my experience in person has been difficult.

IX. Contact information for provincial & territorial Review Boards

Alberta

10365 - 97 Street
Edmonton, AB
T5J 3W7
(780) 422-5994
http://justice.alberta.ca/programs_services/about_us/Pages/ab_review_board.aspx

British Columbia

#1020 - 510 Burrard Street
Vancouver, B.C.
V6C 3A8
(877) 305-2277
<http://www.bcrb.bc.ca/>

Manitoba

Criminal Code Review Board
102 - 500 Portage Avenue
Winnipeg, MB R3C 3X1
Business Hours: 8:30 a.m. - 4:30 p.m.
Telephone: (204) 945-6050
https://www.gov.mb.ca/asset_library/en/abc/jus/manitoba_review_board.pdf

Newfoundland & Labrador

http://www.justice.gov.nl.ca/just_department/criminalcode.html

Northwest Territories

Department of Justice
Government of the Northwest Territories
PO Box 1320
Yellowknife NT X1A 2L9
(867) 920-8852
http://www.justice.gov.nt.ca/mdreview/md_review.shtml

Nova Scotia

5151 Terminal Road
P.O. Box 7
Halifax, NS B3J 2L6
(902) 424-4030
justweb@gov.ns.ca
http://novascotia.ca/just/ccrb/ccrb_overview.asp

Nunavut

Nunavut Criminal Code Review Board
P.O. Box 1269
Iqaluit, Nunavut, X0A 0H0
(867) 975-6532
nccrb@gov.nu.ca

Ontario

151 Bloor Street West, 10th Floor
Toronto, ON M5S 2T5
(416) 327-8866
orb@ontario.ca
<http://www.orb.on.ca/>

Prince Edward Island

P.O. Box 2000, 95 Rochefort Street
Charlottetown, PE C1A 7N8
(902) 368 4594
http://www.gov.pe.ca/eco/ABC/ABC_view.php?number=119

Quebec

500, boulevard René-Lévesque
Ouest 21^e étage
Montréal (Québec) H2Z 1W7
(800) 567-0278
tribunal.administratif@taq.gouv.qc.ca
<http://www.taq.gouv.qc.ca/>

Saskatchewan

188 - 11th Street West
Prince Albert, SK S6V 6G1
(306) 953-2812
lbutton-rowe@skprovcourt.ca
<http://www.justice.gov.sk.ca/saskatchewanreviewboard>

Yukon

Court Services (J-3)
P.O. Box 2703
Whitehorse, YK Y1A 2C6
(867) 667-3596
yukonreviewboard@gov.yk.ca
<http://www.justice.gov.yk.ca/offices/yrb.html>

X. Explanation of Terms

Mental disorder: No person is criminally responsible for an act that is committed or an omission made while suffering from a mental disorder that renders the person incapable of appreciating the nature and quality of the act.

Not criminally responsible on account of mental disorder (NCRMD): A verdict that acknowledges that, while the accused committed the offence, they were incapable of understanding the wrongness of their actions.

Unfit to stand trial (UST): When an accused is unable to proceed with the trial due to being unable to understand the nature of the proceedings, which may include any of: not understanding what they are charged with and/or what they can plead (and what the outcome of any plea is); not understanding the courtroom, who the people in the courtroom are or why they are there; and not being able to communicate their wishes or communicate at all with their lawyer.

Review Boards: Independent, provincially appointed tribunals who make or review the dispositions of patients found UST or NCRMD. They consist of at least five people. The chairperson must be a judge, retired judge or person qualified to be appointed as a judge and there must be at least one licensed psychiatrist.

Disposition order: Essentially, what happens to the patient when found NCRMD or UST. There are three options: *detained* in a psychiatric facility; allowed to live in the community with conditions (*a conditional discharge*); and release directly into the community with no conditions (*an absolute discharge*)

Victim impact statements: A written submission to the Review Board that the victim makes; to be considered by the Review Board when making disposition orders. In their own words, the victim may describe the harm and/or loss they have suffered as a result of their victimization. They can be written by anyone who has been affected by the crime.

Mental illness: Refers to a wide range of mental health conditions, including disorders that affect mood, thinking and behaviour. For the purposes of this document, mental illness refers to diseases of the mind that lead to a finding of NCRMD or UST.

XI. Evaluate this e-resource

Please click this link to evaluate this e-resource:

<https://www.surveymonkey.com/s/FZQCYTM>

