



Policy:

NCRMD (Not Criminally Responsible on account of Mental Disorder) – High-Risk Accused Designations

Policy Code:

NCR 1

Effective Date:

March 1, 2018

Cross-references:

All Crown Counsel are responsible for identifying cases for potential “high-risk accused” applications under section 672.64 of the *Criminal Code*, commencing with charge assessment and continuing throughout the prosecution process. In making this assessment, the protection of the public is the paramount concern.

A “high-risk accused” designation should be sought whenever there is a reasonable likelihood the court will be satisfied on evidence that the legal requirements of section 672.64 are met, and that the public will not otherwise be adequately protected by the regular not criminally responsible on account of mental disorder (NCRMD) dispositions provided in section 672.54(a) to (c). This designation results in potentially more secure and longer periods of detention in hospital.

Applications

When Crown Counsel has identified a file in which they think a designation should be sought, they should:

- review the file, ensure it is complete, and forward it, along with an explanation of the basis for their view that a “high-risk accused” designation should be sought, to a Regional Crown Counsel, Director, or their respective deputy for decision
- advise their Administrative Crown Counsel of the referral to a Regional Crown Counsel, Director, or their respective deputy

Upon receipt of a file, a Regional Crown Counsel, Director, or their respective deputy should:

- consult with the Branch Resource Crown Counsel on NCRMD matters as to whether, on the facts of the case, a high-risk accused designation would be necessary and appropriate to protect the public

- consider the statutory requirements of sections 672.64(1) and (2) and the need to protect the public
- advise the Administrative Crown Counsel and the referring Crown Counsel of their decision
- provide a brief of the case and their decision to the Assistant Deputy Attorney General

Reviews of High-Risk Accused Designations

An accused, who is found to be a high-risk accused, will continue to have the high-risk designation and continue to be detained in a hospital until the designation is revoked by a superior court. The Review Board may refer the accused back to the superior court for a review of the high-risk accused designation and the court, upon holding a hearing, may revoke the designation.

A review will be conducted by the Supreme Court of British Columbia at the location where the high-risk accused designation was originally made and a Crown Counsel at the prosecuting location will be responsible for appearing in court. When a review is scheduled, the matter should be referred to a Regional Crown Counsel, Director, or their respective deputy in the region who will, in consultation with the Resource Crown Counsel on NCRMD matters, make a decision on the position to be taken by the Branch.

Contents of the Report to Regional Crown Counsel

Before referring a file to a Regional Crown Counsel, Director, or their respective deputy, the referring Crown Counsel should ensure it contains the following information:

- a summary of the history and circumstances of the offence on which the potential application is based
- an outline of all admissible, relevant past conduct
- all available information about the mental status of the accused and possible treatment options, including any expert reports
- copies of all relevant documentation, such as victim impact statements, criminal record, information about any other outstanding charges, and a copy of the Information or Indictment
- an explanation for the basis for their view that the accused may be eligible for a “high-risk accused” designation