



INFOGUIDE

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Disposition Orders (Criminal Code of Canada Part XX.1)

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What is a Disposition Order?

- A disposition or a disposition order is a determination by the Court or the Ontario Review Board regarding an accused person who has been found “not criminally responsible due to mental disorder” (NCR) of committing an offence or who has been found “unfit to stand trial” (Unfit). The disposition determines what happens to the accused person after a hearing. There are three different types of dispositions: absolute discharge, conditional discharge and custodial.
- The dispositions available depend on whether the person is NCR or Unfit – this InfoGuide will deal with NCR first.
- The Canadian Criminal Code Part XX.1 (sections 672.1 to 672.95) describes this law. It is available online at: www.canlii.org/ca/sta/c-46/.

What is the Ontario Review Board (ORB)?

- The Ontario Review Board (ORB) is an independent provincial tribunal created by the Criminal Code of Canada. The Board is made up of judges, lawyers, psychiatrists, psychologists and public members, and generally sits in panels of five. To learn more about the ORB visit www.orb.on.ca.

NCR Dispositions

What does an NCR verdict mean?

- To be found not criminally responsible (NCR) of an offence, the court must find that the person (a) did commit the offence charged, and (b) was not able to appreciate his or her actions because of a mental disorder.

Who Makes the Disposition Order?

- The trial court that provided the NCR verdict can make the first disposition. If the court makes the disposition, it must be reviewed by the Ontario Review Board (ORB), an independent tribunal, within 90 days (unless it is an absolute discharge). If the court does not make a disposition then the ORB must review your case within 45 days.

What do the three types of Disposition Orders mean?

- An **absolute discharge** means that the accused person, where the person was found NCR, is free to go without any further contact with the court or review board.
- A **conditional discharge** is similar but the accused person must meet certain conditions – if he or she does not, the court or review board can make a new disposition.
- A **custodial disposition** means that the accused person will be held in a psychiatric facility. A custodial disposition could have a number of points, including whether you stay in a minimum, medium or maximum secure unit; what access you have to the community; visits; living arrangements; whether you have to submit to drug or alcohol testing; etc.

Will I have to go to a Psychiatric Hospital?

- Only if you receive a “custodial” Disposition Order.

How does the Court or ORB decide which disposition is appropriate?

- The court or ORB must discharge you absolutely (NCR only) unless you are a “significant” threat to the public. Only if they decide that you are a significant threat can they consider a conditional discharge or a custodial sentence.
- If you are not discharged absolutely, the court or ORB must make the least onerous and restrictive Disposition Order taking into consideration a number of factors, including: the need to protect the public from dangerous persons, your mental condition, your reintegration into society and your other needs.

How long does the Disposition Order last?

- The ORB has to review your disposition within 12 months. They may agree to hear your review earlier than that in some cases where there is a significant change.
- The ORB must also review your disposition if your liberties are significantly restricted for more than seven days. For more information about the restriction of liberties, see our InfoGuide “Restriction of Liberties Hearings” available online: www.ppao.gov.on.ca/inf-res.html.

Unfit Dispositions***What does unfit to stand trial mean?***

- If you are found Unfit, it means that the court, with the help of a doctor, has determined that you were unable to mount a defense or instruct counsel during the proceeding. The court looks to whether you understand the nature of the proceedings, understand the possible consequences and can communicate with counsel.

I have been found Unfit – what happens now?

- Where there is a verdict of Unfit you will receive a disposition. Disposition orders are very similar to NCR dispositions. If you are a significant threat to others, you may be held (see above information about NCR dispositions).
- If at any time you become fit to stand trial, you are returned to the court for the proceeding.
- Every two years, the Crown must demonstrate to the court that it can make a case against you, should you become fit. If it cannot make its case, you must be released.
- For more information, see our InfoGuide “Fitness to Stand Trial Assessments and Treatment Orders”, available online: www.ppao.gov.on.ca/inf-fit.html.

Questions?

If you have questions contact your local Patient Advocate or call the central office of the Psychiatric Patient Advocate Office at 1-800-578-2343.