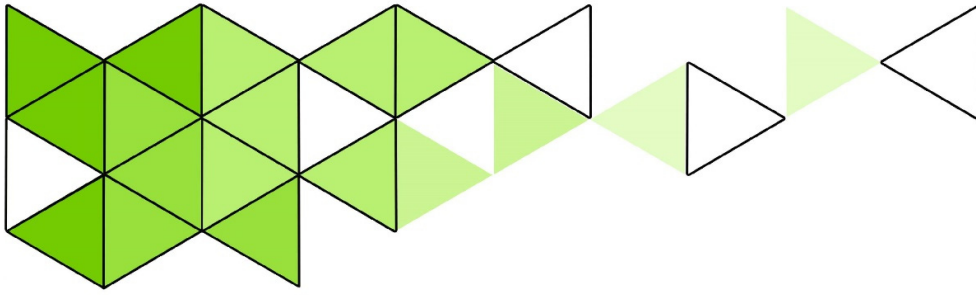




MENTALLY
IMPAIRED
ACCUSED
REVIEW
BOARD

ANNUAL
REPORT
2020/21





FOREWORD

**THE HON. JOHN ROBERT QUIGLEY MLA
ATTORNEY GENERAL; MINISTER FOR ELECTORAL AFFAIRS**

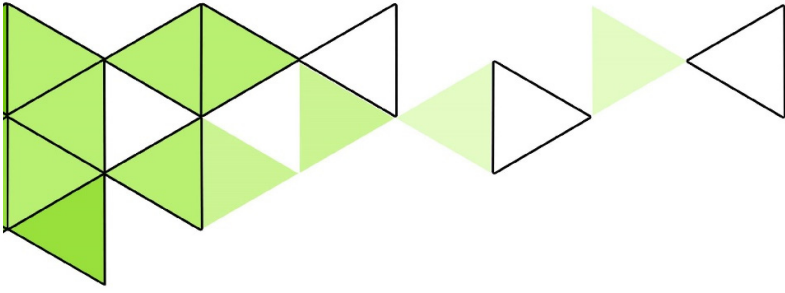
To the Attorney General,
The Honourable John Robert Quigley

I present to you the Annual Report of the Mentally Impaired Accused Review Board for the year ending 30 June 2021.

This annual report is provided to you in accordance with section 48 of the *Criminal Law (Mentally Impaired Accused) Act 1996* (WA) which stipulates that before 1 October in each year the Board is to give a written report to the Minister on –

- a. the performance of the Board's functions during the previous financial year;
- b. statistics and matters relating to mentally impaired accused;
- c. the operation of this Act so far as it relates to mentally impaired accused.

His Honour Mr Allan Fenbury
Chairperson
Mentally Impaired Accused Review Board



CHAIRPERSON'S OVERVIEW

I was initially appointed to the role of Chairperson, Mentally Impaired Accused Review Board (the Board) on 1 April 2018 for a term of three years. In the 2020/21 period, I was re-appointed for a further three years.

During this period the Board maintained its strong relationship with external stakeholders, in particular with staff at Graylands Hospital, the Frankland Centre and the Disability Justice Centre.


The Board continues to be actively involved in providing advice on the new Criminal Law (Mental Impairment) Bill 2020 which, in time and when passed in Parliament, we hope will provide a more contemporary pathway for the safe reintegration into the community for accused persons whilst ensuring the safety of the community. I am hopeful this new legislation will remove the indefinite detention of accused persons; provide the Board with more streamlined powers and processes; and reduce some of the lengthy lag times we are currently experiencing. It perplexes me that, under the current Act, the Board alone is unable to allow accused persons access to basic human rights. This seems to me to be an overly punitive approach to a very vulnerable cohort of people for whom I feel most concerned. The Board is hopeful that the new legislation will bring with it an opportunity for multiple state and government agencies to adopt a holistic approach and work collaboratively in supporting persons with a mental illness or intellectual impairment in the community.

In the previous financial year, as a result of the COVID-19 pandemic, leaves of absence for a number of accused were suspended because of the risk of infection their fortnightly passage from the community back to Graylands Hospital presented to other patients. This was to the serious detriment of these accused. I am pleased that these leave of absences have since been reinstated.

I would also like to convey my personal thanks to the administration staff and members of the Board during for their conduct during the COVID-19 pandemic and associated restrictions, including several 'lock down' periods.

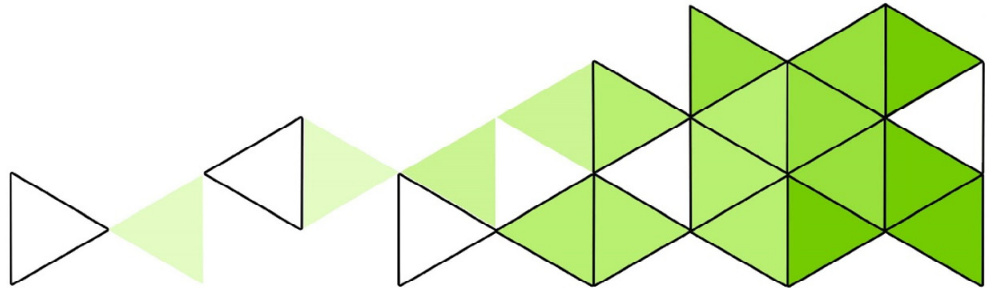


The Board provides an essential public service and is required to maintain its operations and continue functioning to fulfil its statutory obligations. These uncertain times can present a challenge for many; however, I am pleased with the manner in which Members and staff competently responded to the restrictions imposed and continued to undertake their duties in the professional manner to which I have become accustomed. I thank the Members and staff for their continued standard of service to the Western Australian community.



His Honour Mr Allan Fenbury
Chairperson
Mentally Impaired Accused Review Board

13 August 2021





STATISTICS

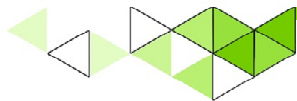
As of 30 June 2021, 52 mentally impaired accused were under the statutory authority of the Board. Each accused has an individual set of circumstances which are unique and need to be considered accordingly by the Board. The number of accused under the jurisdiction of the Board changes throughout the financial year period due to the number of custody orders made by the courts and the number of accused discharged from their custody orders.

BOARD MEETINGS PER FINANCIAL YEAR



YEAR	2016-2017	2017-2018	2018-2019	2019-20	2020-21
NUMBER OF MEETINGS	30	31	24	38	37

For the period from 1 July 2020 to 30 June 2021, the Board met on 37 occasions.



CUSTODY ORDERS MADE BY THE COURTS

A court may determine to place an accused person, who is found unfit to stand trial, on a custody order pursuant to section 16 or section 19 of the Act. A court may determine to place an accused person, who is acquitted on account of unsoundness of mind, on a custody order pursuant to section 21 or 22 of the Act.

Section 25 of the Act stipulates that the Board is then required to review the case of an accused within five working days of a custody order being made by a court.

YEAR	2016-2017	2017-2018	2018-2019	2019-20	2020-21
NEW CUSTODY ORDERS MADE BY THE COURTS	4	4	8	11	6*

*One mentally impaired accused received two custody orders on the same date.

PLACE OF CUSTODY ORDERS MADE BY THE BOARD



Section 24(1) of the Act states that a mentally impaired accused is to be detained in an authorised hospital, a declared place, a detention centre or a prison, as determined by the Board, until released by order of the Governor.

The declared place is known as the Bennett Brook Disability Justice Centre.

Place of custody, as at 30 June 2021, for the 52 mentally impaired accused:

AUTHORISED HOSPITAL	PRISON	DECLARED PLACE
36	12	4



REPORTS TO THE MINISTER

Section 33 of the Act outlines when the Board is required to give the Minister a written report about a mentally impaired accused. These are referred to as statutory reports.

YEAR	2016-2017	2017-2018	2018-2019	2019-20	2020-21
NUMBER OF REPORTS SUBMITTED TO THE ATTORNEY GENERAL (Statutory Reports)	47	41	41	58	64

RELEASE OF MENTALLY IMPAIRED ACCUSED PERSONS



NUMBER OF CONDITIONAL RELEASE ORDERS ISSUED BY THE GOVERNOR IN EXECUTIVE COUNCIL FOR 2020-2021*	NUMBER OF ACCUSED CURRENTLY ON CONDITIONAL RELEASE ORDERS AS AT 30 JUNE 2021
3	13

*includes amendments to Conditional Release Orders



BOARD REMUNERATION

Information relating to the remuneration of Board Members this year is contained with the Annual Report of the Department of Justice. The Department of Justice provides administrative support to the Board and is responsible for remunerating Board Members where such payment is incurred.

