

IN THE PROVINCIAL COURT OF NEWFOUNDLAND & LABRADOR
CRIMINAL DIVISION

PRACTICE DIRECTIVE

The following practice directive, issued pursuant to Rule 7 of the *Rules of the Provincial Court of Newfoundland and Labrador in Criminal Proceedings*, is intended for direction of practitioners in the legal and medical professions in filing assessment reports required by virtue of section 672.11 of the Criminal Code.

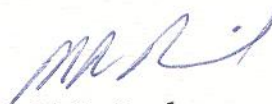
Section 672.11(a) C.C.C. allows the Court to order an assessment of an accused to determine whether he or she is unfit to stand trial.

Section 2 C.C.C. defines "*unfit to stand trial*" as meaning unable on account of mental disorder to conduct a defence at any stage of the proceedings before a verdict is rendered or to instruct counsel to do so, and in particular, unable on account of mental disorder to

- (a) understand the nature or subject of the proceedings;
- (b) understand the possible consequences of the proceedings; or
- (c) communicate with counsel.

Unless otherwise specifically ordered, assessment reports should address these specific issues. There is no need for the assessment report to make reference to the many other points that may be legitimately communicated between the psychiatrist and the accused. More precisely, any report filed with the Court should be concise and state only whether the subject person is fit or unfit to stand trial in accordance with the above criteria, or if not, briefly explain why a remand for further assessment is necessary together with an indication of the further period of remand recommended.

DATED at St. John's, NL this 22nd day of April 2005.



M.R. Reid
Chief Judge

FORM 48
Assessment Order
(Section 672.13 C.C.C.)

Canada,
Province of Newfoundland and Labrador

Whereas, I have reasonable grounds to believe that evidence of the mental condition of _____, who has been charged with _____ may be necessary to determine

- whether the accused is unfit to stand trial*
- whether the accused suffered from a mental disorder so as to exempt the accused from criminal responsibility by virtue of subsection 16(1) of the Criminal Code at the time of the act or omission charged against the accused
- whether the balance of the mind of the accused was disturbed at the time of the commission of the alleged offence, where the accused is a female person charged with an offence arising out of the death of her newly-born child
- where a verdict of unfit to stand trial or a verdict of not criminally responsible on account of mental disorder has been rendered in respect of the accused, the appropriate disposition to be made in respect of the accused pursuant to section 672.54 or 672.58 of the Criminal Code
- Where the accused has been convicted of the offence, whether an order under subsection 747.1(1) of the Criminal Code should be made in respect of the accused

I hereby order an assessment of the mental condition of _____ to be conducted by a psychiatrist for a period of _____ hours _____ days.

This order is to be in force for a total of _____ hours _____ days, including travelling time, during which time the accused is to remain

- in custody at Waterford Hospital/Her Majesty's Penitentiary
- out of custody, on the following conditions:

Next appearance: _____

Assessment was requested by: _____

Dated this _____ day of _____, 201____, at _____ NL

Judge/Justice/Clerk of the Court

*"unfit to stand trial" means unable on account of mental disorder to conduct a defence at any stage of the proceedings before a verdict is rendered or to instruct counsel to do so, and, in particular, unable on account of mental disorder to

- (a) understand the nature or object of the proceedings
- (b) understand the possible consequences of the proceedings, or
- (c) communicate with counsel