



ONTARIO
REVIEW BOARD

*Office of the Honorable
Douglas H. Carruthers, Q.C.*

January 28, 2002

The Honourable Tony Clement
Minister of Health and Long-Term Care
80 Grosvenor Street
10th Floor, Hepburn Block
Toronto, ON M7A 2C4

Dear Minister:

Re: Ontario Review Board Annual Report

On behalf of the Ontario Review Board, it is my pleasure to submit our 2000/2001 Annual Report pursuant to the new MBS Agency Establishment and Accountability Directive.

Yours sincerely,

The Honourable Douglas H. Carruthers, Q.C.
Chair
Ontario Review Board

ONTARIO REVIEW BOARD

Annual Report 2000/2001

(Fiscal Period - April 1, 2000 to March 31, 2001)



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MESSAGE FROM THE CHAIR



ONTARIO REVIEW BOARD

*Office of the Honorable
Douglas H. Carruthers, Q.C.*

Message from the Chair

The Ontario Review Board is an integral part of the criminal justice system, not only in this province, but also in the country. While it is *treated* as having been established under the laws of the province, the Board was actually established under Part XX.1 of the *Criminal Code* of Canada, and as such operates under federal jurisdiction - *not* under the laws of the province. This fact alone sets the Ontario Review Board apart from other Ontario tribunals.

Every case tried by the Board on any given day involves two basic rights - the right to liberty, and the right to be safe and secure living in one's community. There can be no more complex issues than these tried anywhere, in any form. At least once a day, of every week, of every year during which the Board is sitting, one or more individuals are detained for a period of one year.

To further demonstrate the importance of the role of the Board in the criminal justice system, it is interesting to note that the framers of Bill C-30, the amendment to the *Criminal Code* of Canada which brought about Part XX.1, deemed that appeals from the decision of the Board be fast tracked and made directly to the Court of Appeal of each province.

Every year, the Board meets the demands of its high volume workload guided by the *Criminal Code*, and the need to balance an individual's right to liberty and the public's right to safety. As Chair of the Board, I commend the members and staff for their commitment and dedicated performance in the past year, and I look forward to their continued efforts as we address the many challenges that lie ahead.

The Honourable Douglas H. Carruthers, Q.C.

OVERVIEW OF THE BOARD

The Ontario Review Board is a unique tribunal that forms a critical component of the Canadian justice system. While it operates within the province of Ontario, the Ontario Review Board is not governed by provincial legislation, but by federal legislation.

Established under Part XX.1 of the *Criminal Code* of Canada, the role of the Ontario Review Board is clearly defined as follows:

A Review Board shall be established or designated for each province to make or review dispositions concerning any accused in respect of whom a verdict of not criminally responsible by reason of mental disorder or unfit to stand trial is rendered, and shall consist of not fewer than five members appointed by the Lieutenant Governor in council of the province...”(Part XX.1)

While the role of each provincial Review Board is the same from province to province, the *Criminal Code* states that *a Review Board shall be treated as having been established under the laws of the province.*” This statement recognizes the fact that the efficiency and effectiveness of each board in each province hinges on its connection to the province’s psychiatric facilities and mental health delivery system.

The Board’s procedures are directed solely by the *Criminal Code* of Canada and the Public Inquiries Act. Unlike adjudicative agencies that are created by provincial statute, the Ontario Review Board is not subject to the provisions of the Statutory Powers and Procedures Act. Appeals from decisions of the Ontario Review Board are directly to the Court of Appeal for Ontario.

JURISDICTION OF THE BOARD

The Ontario Review Board has jurisdiction over individuals, referred to as “accused,” whom the Ontario courts have found to be unfit to stand trial due to mental disorder, or not criminally responsible for the commission of a crime due to a mental disorder.

Individuals found to be unfit to stand trial are under the jurisdiction of the Board until the Board finds them fit to stand trial. At that time, they are returned to the courts to be tried for their offences.

Functioning in the same manner as a court, the Board’s responsibility is to take into consideration the “*need to protect the public from dangerous persons, the mental condition of the accused, the reintegration of the accused into society and the other needs of the accused.*”

These complex decisions, made in each and every hearing conducted by the Ontario Review Board, carry significant ramifications as they affect the liberty of individuals and the safety of the public. The importance of the Board’s decisions as they relate to these basic human rights is further demonstrated by that fact that the *Criminal Code* states that appeals made to the Board’s decisions go directly to the Court of Appeal for Ontario.

Decisions of the Board are referred to as dispositions. Following the hearings, the Ontario Review Board renders one of three dispositions:

- 1) An absolute discharge for an accused person who is not criminally responsible, if the accused person is not a significant threat to the safety of the public;
- 2) A discharge subject to conditions; or
- 3) Detention in a hospital, subject to conditions.

For those detained in hospital, the Board issues a warrant for detention as set out in the *Criminal Code*.

Other than absolute discharges, dispositions of the Board are in effect for up to a year at which time a review hearing is held before the Board.

Parties to a hearing may include: the accused; the person in charge of the hospital in which the accused is detained or to which the accused reports; the Attorney General of the province where the disposition is to be made or from which the accused is transferred; and other persons who have a substantial interest in protecting the interests of the accused if the Review Board is of the opinion that it is just to designate such persons as parties.

ORGANIZATION OF THE BOARD

In carrying out its mandate as directed by the *Criminal Code*, the Board operates in a fashion similar to the courts.

The Ontario Review Board is made up of 124 members. In addition to the Chair and Legal Counsel, Board members include 22 Alternate Chairs, 30 Lawyers, 39 Psychiatrists, 9 Psychologists, and 24 Public Members. All are residents of Ontario. The members of the Board are appointed by Order-in-Council. A quorum of the Board consists of the Chairperson, a psychiatrist and “any other member.”

As the *Criminal Code* states, the Chairperson must be a judge of the Federal Court or of a provincial superior, district or county court, or a person who has retired from or is entitled to be appointed to such a judicial office. “Chairperson” by definition includes not only the Chairperson as appointed by the provincial Cabinet, but also any other qualified member whom the Chairperson designates as an “Alternate Chairperson” to act on the Chairperson’s behalf. In Ontario, the Chair appoints Alternate Chairs who are usually lawyers with 10 years or more experience, judges or retired judges.

The *Criminal Code* also specifies that each panel for a hearing must consist of three Board members, one of which must be a psychiatrist. Each panel must have a Chairperson or Alternate Chairperson. The Ontario Review Board sits in panels of five consisting of the Chair, two psychiatrists, or one psychiatrist and one psychologist, a lawyer and a public member.

An initial hearing, held after an individual has been found to be not criminally responsible or unfit to stand trial by the courts, is usually conducted in the facility where the accused is detained, such as a psychiatric hospital, court house or detention centre. The Board is required to hold an initial hearing within 45 - 90 days following the court’s finding.

An annual hearing is required for those accused who are already under the Board’s jurisdiction. Annual reviews are conducted in the provincial psychiatric facility where the accused is detained, penitentiary, or courtrooms.

Those who are declared to be unfit to stand trial are required to be represented by counsel. A large number of the accused who are not criminally responsible are also represented by counsel. At each hearing, evidence from the hospital where the accused is being detained is reviewed. The Board deliberates, then issues a written disposition. If that individual is further detained in hospital, the Board issues a new warrant.

Reasons for dispositions are issued as separate documents sometime later.

MEMBERS OF THE BOARD

Member	Date First Appointed	Date Current Term Expires
<u>Chair</u>		
The Honourable D. H. Carruthers, Q.C.	September 11, 1996	December 10, 2002
<u>Alternate Chairs (& Legal Members)</u>		
The Honourable Mr. Justice L.A. Beaulieu	July 4, 1997	July 3, 2003
The Honourable W. E. Bell	March 30, 1999	March 29, 2002
The Honourable J.D. Bernstein	October 13, 1999	October 12, 2002
Mr. F. Bickford	June 18, 1997	June 17, 2000
Dr. H. Bloom	January 25, 1990	September 30, 2001
The Honourable J. W. Brooke Q.C.	December 8, 1999	December 7, 2002
Dr. B.T. Butler	March 1, 1983	February 29, 2004
Mr. S. R. Clark	October 21, 1998	October 20, 2001
Ms. K. Arnet Connidis	February 10, 1994	December 16, 2001
Mr. D.F. Dawson	March 24, 1994	March 23, 2000
The Honourable W.R. Dupont Q.C.	December 2, 1999	December 1, 2002
Mr. M. Epstein	December 16, 1998	December 15, 2001
Ms. L. Feld	February 24, 1993	September 30, 2001
The Honourable Mr. Justice L. Feldman	January 13, 1994	February 28, 2003
Ms. M. Forestell	June 2, 1993	September 30, 2001
Mr. H. Garfield	December 2, 1998	December 1, 2001
Mr. S. Gilbert	July 3, 1996	February 28, 2003
The Honourable D. Graham	February 25, 1998	February 24, 2001
The Honourable E. P. Hartt	November 29, 2000	November 28, 2003
Ms. S. Kert	April 29, 1999	April 28, 2002
Mr. G. Kilpatrick	June 30, 2000	June 29, 2003
The Honourable Mr. Justice J.M. Labrosse	May 14, 1997	May 13, 2003
Ms. J. Leiper	August 23, 1993	September 30, 2001
Mr. T. Lipson	March 17, 1986	February 28, 2003
Mr. F. McArdle	December 4, 1996	December 3, 2001
The Honourable J.F. McCart	September 10, 1997	September 9, 2000
The Honourable A.B. Rosenberg, Q.C.	December 15, 1999	December 14, 2002
Mr. P. Ryan	March 17, 1986	February 28, 2002
Mr. I.D. Scott	October 21, 1998	October 20, 2001
The Honourable B.B. Shapiro	September 6, 1991	February 28, 2001
Mr. L. Steacy	March 5, 1997	March 4, 2003
The Honourable R.J.K. Walmsley	January 13, 1995	February 28, 2001
The Honourable Mr. Justice D. Watt	December 4, 1996	December 3, 2002
<u>Legal Members</u>		
Mr. K.G. Bernhardt	June 12, 1996	February 28, 2002
The Honourable Mr. Justice K.C. Binks Q.C.	May 10, 2000	May 9, 2003
Mr. J.M. Brown	March 30, 1999	March 29, 2002
Mr. J. N. Buchanan	May 14, 1997	May 13, 2003
Mr. J.V. Bubba Q.C.	August 1, 2000	July 31, 2003
Mr. M. J. Bukovac	December 20, 2000	December 19, 2003
The Honourable Mr. Justice B. Durno	October 21, 1998	October 20, 2001
Mr. C. Eggert	September 10, 1997	September 9, 2003
Mr. M. Fair	March 30, 1999	March 29, 2002
Ms. L.A. Farrell	March 30, 1999	March 29, 2002
Mr. L. Feigman	March 11, 1996	February 28, 2003
Mr. N. Forest	April 4, 2001	April 3, 2004
Mr. H. Ginn	December 16, 1998	December 15, 2001
Mr. J. Goldberg	May 17, 1999	May 16, 2002

Member	Date First Appointed	Date Current Term Expires
The Honourable Guy Y. Goulard Q.C.	June 30, 2000	June 29, 2003
Mr. K. Harris	December 16, 1998	December 15, 2001
Mr. S. Horton	April 29, 1999	April 28, 2002
The Honourable David G. Humphrey Q.C.	March 16, 2000	March 15, 2003
Ms. S. G. Kerr	September 10, 1997	September 9, 2003
Mr. R. C. Lee Q.C.	April 29, 1999	April 28, 2002
The Honourable Mr. Justice H.R. Locke	October 21, 1998	October 20, 2001
The Honourable Mr. Justice J.D. McCombs	May 14, 1997	May 13, 2002
Mr. G. Michener Q.C.	January 31, 1996	February 28, 2002
The Honourable Mr. Justice E.B. Minden	December 4, 1996	December 3, 2001
The Honourable H.D. Porter	September 5, 2000	September 4, 2003
Mr. B. Starkman	February 3, 1994	February 2, 2002
Mr. R.C. Thompson	November 18, 1998	November 17, 2001
Mr. K.G. Walker	April 29, 1999	April 28, 2002
Mr. J.A.S. Wilcox	December 2, 1998	December 1, 2001
Ms. J.K. Zytaruk	April 24, 1997	April 23, 2003

Psychiatrists

Dr. J. Arboleda-Florez	November 18, 1998	November 17, 2001
Dr. J.D. Atcheson	June 1, 1997	February 29, 2004
Dr. R.B. Balmaceda	October 21, 1998	October 20, 2004
Dr. M.H. Ben-Aron	October 4, 2000	October 3, 2003
Dr. R.F. Billings	March 1, 1988	February 29, 2004
Dr. D. Bourget	May 28, 1997	May 27, 2003
Dr. J.M.W. Bradford	February 1, 1984	February 29, 2004
Dr. M.M. Brown	June 30, 2000	June 29, 2003
Dr. R. Buckingham	June 12, 1992	February 29, 2004
Dr. D.S. Byers	March 1, 1983	February 29, 2004
Dr. L.E. Cappe	August 24, 1998	August 23, 2004
Dr. G.A. Chaimowitz	December 4, 1996	December 3, 2001
Dr. R. D. Chandrasena	December 6, 2000	December 5, 2003
Dr. A. Côté	November 30, 1989	February 29, 2004
Dr. P. Darby	June 12, 1992	February 29, 2004
Dr. J. Ellis	October 21, 1998	October 20, 2004
Dr. J.C. Ferencz	December 4, 1996	December 3, 2001
Dr. F.W. Furlong	October 4, 2000	October 3, 2003
Dr. D.A. Galbraith	November 3, 1994	November 2, 2003
Dr. G. D. Glancy	March 1, 1988	February 29, 2004
Dr. J. Gojer	October 21, 1998	October 20, 2004
Dr. G. Heasman	June 18, 1997	June 17, 2003
Dr. A.D. Hinsberger	October 6, 1999	October 5, 2002
Dr. S.J. Hucker	December 11, 1996	December 10, 2001
Dr. J.J. Kaufman	February 1, 1984	January 1, 2001
Dr. P.F. Kelly	December 30, 1999	December 29, 2002
Dr. E. Kingstone	January 13, 1995	February 29, 2004
Dr. P.E. Klassen	October 13, 1999	October 12, 2002
Dr. W.J. Komer	February 5, 1997	February 4, 2003
Dr. R. Kunjukrishnan	December 4, 1996	December 3, 2001
Dr. P.G. Lynes	June 12, 1992	February 29, 2004
Dr. S. Malcolmson	December 3, 1997	March 4, 2004
Dr. P. Max	March 1, 1988	February 29, 2004
Dr. A. McDonald	August 24, 1998	August 23, 2004
Dr. A. Miller	January 1, 1979	February 28, 2001
Dr. B.C.L. Orchard	January 13, 1994	February 28, 2001
Dr. E. Pohlman	March 1, 1988	February 29, 2004
Dr. M.V.A. Prakash	August 24, 1998	August 23, 2004
Dr. P. J. Prendergast	June 12, 1992	February 29, 2004

Member	Date First Appointed	Date Current Term Expires
Dr. Q. Rae-Grant	April 20, 1994	April 19, 2002
Dr. R.B. Sheppard	December 11, 1996	December 10, 2001
Dr. G.S. Sidhu	December 7, 1994	February 28, 2002
Dr. W.R.P. Surphlis	March 30, 1999	March 29, 2002
Dr. S. Swaminath	December 8, 1993	February 28, 2002
<u>Psychologists</u>		
Dr. R. Cormier	December 2, 1998	December 1, 2001
Dr. G. B. Jones	March 31, 2000	March 30, 2003
Dr. L.O. Lightfoot	November 20, 1992	November 2, 2003
Dr. L.C. Litman	February 25, 1998	February 24, 2004
Dr. D. Nussbaum	December 3, 1997	December 2, 2003
Dr. N. Pollock	November 3, 1994	November 2, 2003
Dr. G.M. Turrall	February 24, 1993	February 29, 2004
Dr. C.D. Webster	December 13, 2000	December 12, 2003
Dr. P.N. Wright	August 24, 1998	August 23, 2004
<u>Public Members</u>		
Dr. F. Abbott	April 29, 1999	April 28, 2002
Mr. J. R.J. Cottrell	April 19, 2000	April 18, 2003
Mr. M. Decaen	October 22, 1997	October 21, 2003
Ms. L. D. Eccles	February 16, 2000	February 15, 2003
Ms. H. Elie	December 22, 1999	December 21, 2002
Ms. B. Genser	October 1, 1997	September 30, 2000
Mr. W. Gilbert	September 10, 1997	December 12, 2003
Ms. B. Hodgson	October 4, 2000	October 3, 2003
Mr. H. Hodowony	October 8, 1997	October 7, 2000
Mr. T. S. Kelsey	December 20, 2000	December 19, 2003
Mr. M.P. Keogh	May 13, 1998	May 12, 2004
Mrs. S. Lee	October 18, 2000	October 17, 2003
Mr. J.W. Lidstone	March 1, 1988	February 28, 2003
Ms. G. Lockyer	May 17, 1999	May 16, 2002
Dr. L.L.Q. Lum	November 19, 1997	November 18, 2003
Ms. A. MacDonald	September 5, 2000	September 4, 2003
Mr. A. Mete	March 20, 1997	March 19, 2003
Mr. M. Money	October 21, 1998	October 20, 2001
Ms. D. Ormston	May 17, 1999	May 16, 2002
Mr. A. Péladeau	November 18, 1998	November 17, 2001
Dr. P.J.H. Pignal	November 3, 1994	November 2, 2000
Ms. L. Ritchie	March 30, 1999	March 29, 2003
Ms. J.J. Roy	December 16, 1998	December 15, 2001
The Honourable J.M. Seneshen	May 17, 1999	May 16, 2002
Rev. E.D. Sisel, Ph.D.	June 10, 1993	June 9, 2001
Ms. C. Spearen	September 24, 1997	September 23, 2000
Mr. D.D. Tennant	October 1, 1997	September 30, 2003
Ms. S. Wetmore	December 22, 1999	December 21, 2002
Mr. D.R. Whall	November 18, 1998	November 17, 2001
Mr. P.E.O. Yorke	May 17, 1999	May 16, 2002

PERFORMANCE MEASURES AND TARGETS

The core business of the Ontario Review Board is to conduct hearings and issue dispositions in accordance with the *Criminal Code* within the mandatory timeframes - 45 or 90 days after the verdict is rendered as the case may be. After making a disposition, the Review Board must review that disposition within 12 months and every 12 months thereafter for as long as the disposition remains in force.

In addition to initial hearings and annual hearings, the *Criminal Code* provides for a discretionary early review of a disposition at the request of any party other than the hospital. Early review is mandatory if requested by the hospital or if an individual's liberties are restricted for more than seven days.

These are the events that dictate the Board's workload. They can fluctuate dramatically from month to month. The Board's performance is measured by its ability to meet a demanding schedule and deliver quality service.

Occasionally, there are circumstances under which the Board is unable to meet deadlines for hearings, but this represents a small percentage of overall scheduled hearings. Reasons for a cancelled hearing include:

- Adjournment at the request of the party;
- Failure of the Court to notify the Board of new accused; or
- Clerical error.

The Ontario Review Board is in the process of developing performance standards with respect to time frames for dispositions and reasons for dispositions to be issued. Currently, the disposition is generally issued anywhere from two days to two weeks after a hearing or week of hearings. Reasons for dispositions follow. A high priority of the Board is to issue a disposition within five to 10 days after the hearing.

The Board is also pursuing a number of initiatives to facilitate the process, such as:

- Educating Board members;
- Working with other provincial Review Boards to make recommendations to the federal government concerning proposed changes to the *Criminal Code* of Canada;
- Improving administrative efficiency through technology - the Board has recently acquired an automated case management system and is looking at options for better integration and sharing of services with the Consent and Capacity Board located on the same floor as the Ontario Review Board.

The Board will continue to pursue methods of increasing efficiency of operations and processes, and delivering a high quality of service.

Like others in the Agency Sector, the Board is looking at Performance Management for Appointees to Regulatory and Adjudicative Agencies as set out in the November 2000 document. Further details are required from Management Board of Cabinet before the Board can look at applying the process internally.

In addition, the Board is finalizing its Complaint Process following the Management Board of Cabinet's recommendation that the Ontario Review Board have a guide to respond to public complaint.

REVIEW BOARD PERSONNEL

Name	Position
The Hon. Douglas H. Carruthers, Q.C.	Chair
Maureen Forestell	Legal Counsel
Jim Curren	Chief Operating Officer
John Smith	Systems Officer
Maureen Gauder	Finance Administrative Coordinator
Sewranie Narine	Secretary to Chair/Counsel
Rhea Castro	Distribution Coordinator
Yusuf Unsal	Distribution and Records Clerk
Claire Lim Yin	Administrative and Financial Assistant
Olga Lenskaia	Bilingual Receptionist/Secretary
Tricia Bonomo	Database Administrator
Janet Martell	Deputy Registrar
Roslyn Gunton	Board Order Administrator
Victoria Bedrossian	Board Order Administrator
Radica Roopsingh	Scheduling Coordinator
Helen Schneider	Scheduler
Michele Korec	Scheduler

FINANCIAL INFORMATION

2000/2001 Expenditures by Standard Account – Audited Figures

DESCRIPTION	2000-01 ALLOCATION	APPROVED PRESSURES	REVISED ALLOCATION	EXPENDITURES	SURPLUS / DEFICIT**
Salaries and Wages	584,900	81,500	666,400	678,702	(12,302)
Benefits	101,700	59,100	160,800	83,841	76,959
Transportation & Communications	248,800	-	248,800	442,790	(193,990)
Services	1,662,900	417,800	2,080,700	1,790,868	(1) 9,832
Supplies & Equipment	27,500	-	27,500	92,811	(65,311)
Sub-total ODOE	1,939,200	417,800	2,357,00	2,326,469	30,531
Total	2,625,800	558,400	3,184,200	3,089,012	95,188
Ministry Credit Note to ORB			0	499,700	(499,700)
Audited Year End Total:			3,184,200	3,588,712	(404,512)

Note

(1) Includes \$499,700 credit note from Corporate Services and Organizational Development Division – credit not reversed at year-end.

FINANCIAL INFORMATION (CONT'D)

2000/2001 Expenditures by Function

FUNCTION	EXPENDITURES
Salaries & Wages	678,702
Employee Benefits	83,844
Administration	499,790
Annual Hearing	1,326,947
Initial/Early Review Hearings	831,297
Education	168,135
Total	3,588,715

FINANCIAL INFORMATION – CHARTED

Expenditures by Function

