



ONTARIO  
REVIEW BOARD

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

June 30, 2005

The Honourable George Smitherman  
Minister of Health and Long-Term Care  
80 Grosvenor Street  
10<sup>th</sup> Floor, Hepburn Block  
Toronto, ON M7A 2C4

Dear Minister:

**Re: Ontario Review Board Annual Report**

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On behalf of the Ontario Review Board, it is my pleasure to submit our 2004/2005 Annual Report pursuant to the MBS Agency Establishment and Accountability Directive.

Yours sincerely,

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

# ONTARIO REVIEW BOARD

## *Annual Report 2004/2005*

*(Fiscal Period - April 1, 2004 to March 31, 2005)*



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MESSAGE FROM THE CHAIR



ONTARIO  
REVIEW  
BOARD

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

Message from the Chair

The Ontario Review Board being established under Part XX.1 of the *Criminal Code* is an integral part of the criminal justice system. The Board exercises jurisdiction over individuals found by the courts to be either unfit to stand trial on account of a mental disorder or not criminally responsible on account of a mental disorder.

Each hearing conducted by the Board involves balancing two fundamental rights: the individual's right to liberty and the public's right to safety. The issues are complex and the decisions have a significant impact on the parties and the public. The Board has a high volume work load to meet each year.

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 Procedure 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,” who 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.

As of March 31, 2005, the Ontario Review Board is made up of 123 members. In addition to the Chair, Board members include 27 Alternate Chairs, 15 Lawyers, 49 Psychiatrists, 14 Psychologists, and 18 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 whom 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 hospital where the accused may be detained, or in a court house. The Board no longer holds hearings in detention centres. 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, in a courtroom or other meeting room open to the public.

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 a separate document some time later.

MEMBERS OF THE BOARD

<b>Member</b>	<b>Date First Appointed</b>	<b>Date Current Term Expires</b>
<b><u>Chair</u></b>		
The Honourable D. H. Carruthers, Q.C.	September 11, 1996	December 10, 2005
<b><u>Alternate Chairs (&amp; Legal Members)</u></b>		
The Honourable W. E. Bell	March 30, 1999	March 29, 2005
The Honourable J.D. Bernstein	October 13, 1999	October 12, 2005
Dr. H. Bloom	January 25, 1990	September 30, 2007
The Honourable J. W. Brooke, Q.C.	December 8, 1999	December 7, 2005
Dr. B.T. Butler	March 1, 1983	February 28, 2007
The Honourable Mr. Justice S. R. Clark	October 21, 1998	October 20, 2004
Mr. W.B. Donaldson	June 25, 2003	June 24, 2006
The Honourable W.R. Dupont, Q.C.	December 2, 1999	December 1, 2005
Mr. M.J. Epstein	December 16, 1998	December 15, 2004
Ms. L.A. Farrell	March 30, 1999	March 29, 2005
Ms. M. D. Forestell	June 2, 1993	January 13, 2008
Mr. H. Garfield	December 2, 1998	December 1, 2005
The Honourable J.D. Greco	December 4, 2002	December 3, 2005
The Honourable G. Y. Goulard, Q.C.	June 30, 2000	June 29, 2006
The Honourable E. P. Hartt	November 29, 2000	March 31, 2007
The Honourable D. G. Humphrey, Q.C.	March 16, 2000	March 15, 2006
Ms. S. Kert	April 29, 1999	April 28, 2008
Mr. G.B. Kilpatrick	June 30, 2000	June 29, 2006
The Honourable Mr. Justice J.M. Labrosse	May 14, 1997	May 13, 2006
Ms. S.E. Lavine	December 4, 2002	December 3, 2005
The Honourable H.R. Locke	October 21, 1998	October 20, 2007
Mr. C.M. MacIntyre, Q.C.	February 18, 2004	February 17, 2007
Mr. F.E. McArdle	December 4, 1996	January 13, 2006
The Honourable D. F. O’Leary, Q.C.	November 21, 2001	November 20, 2008
Mr. J. A. Neuberger	June 19, 2002	June 18, 2005
Ms. M. S.G. Peeris	February 6, 2002	March 31, 2008
The Honourable H.D. Porter	September 5, 2000	September 4, 2006
The Honourable A.B. Rosenberg, Q.C.	December 15, 1999	December 14, 2005
The Honourable Mr. Justice R. D. Schneider	June 13, 2001	June 12, 2007
Mr. J.A.S. Wilcox	December 2, 1998	December 1, 2006
The Honourable T. G. Zuber, Q.C.	December 21, 2001	January 12, 2008
<b><u>Legal Members</u></b>		
Mr. R. J. Braudo	August 21, 2001	August 20, 2007
Mr. J.M. Brown	March 30, 1999	March 29, 2005
Ms. S-T. Cheng	October 7, 2004	October 6, 2007
Mr. S.J. Edgley	April 9, 2003	April 8, 2006
Mr. M. Fair	March 30, 1999	March 29, 2005
Mr. N. Forest	April 4, 2001	April 3, 2005
Ms. C. Fromstein	August 25, 2004	August 24, 2007
Mr. H.S. Ginn	December 16, 1998	December 15, 2004
Mr. D. Giuffrida	August 25, 2004	August 24, 2007
Mr. J. Goldenberg	November 3, 2004	November 2, 2007
Mr. J. H. Goldberg	May 17, 1999	May 16, 2005
Mr. K.R. Harris	December 16, 1998	December 15, 2004
Mr. S.D. Horton	April 29, 1999	April 28, 2005
Mr. R. C. Lee, Q.C.	April 29, 1999	April 28, 2005
Mr. I. McTavish	April 18, 2001	April 18, 2004
Ms. K. K. Mundi	December 4, 2002	December 3, 2005

Member	Date First Appointed	Date Current Term Expires
Ms. A.E. Spafford	July 4, 2001	July 3, 2007
Mr. R.C. Thompson, Q.C.	November 18, 1998	February 1, 2007
Mr. J.P. Vice, Q.C.	May 29, 2002	May 28, 2005
Mr. K.G. Walker	April 29, 1999	April 28, 2005

### Psychiatrists

Dr. A.G. Ahmed	August 25, 2004	August 24, 2007
Dr. J. Arboleda-Florez	November 18, 1998	November 17, 2004
Dr. R.B. Balmaceda	October 21, 1998	October 20, 2007
Dr. M.H. Ben-Aron	October 4, 2000	October 3, 2006
Dr. R.F. Billings	March 1, 1988	February 28, 2007
Dr. B. Bordoff	July 31, 2001	July 30, 2007
Dr. D. Bourget	May 28, 1997	May 27, 2006
Dr. J.M.W. Bradford	February 1, 1984	February 28, 2007
Dr. M. Brown	June 30, 2000	June 29, 2006
Dr. R. Buckingham	June 12, 1992	February 28, 2007
Dr. D.S. Byers	March 1, 1983	February 28, 2007
Dr. L.E. Cappe	August 24, 1998	August 23, 2007
Dr. G.A. Chaimowitz	December 4, 1996	December 3, 2007
Dr. R. D. Chandrasena	December 6, 2000	February 4, 2007
Dr. P.E. Cook	May 29, 2002	May 28, 2005
Dr. A. Côté	November 30, 1989	February 28, 2007
Dr. I. Côté	June 13, 2001	June 12, 2007
Dr. P.L. Darby	June 12, 1992	February 28, 2007
Dr. K.D. De Freitas	January 13, 2005	January 12, 2008
Dr. J. Ellis	October 21, 1998	October 20, 2007
Dr. J. P. Fedoroff	October 17, 2001	October 16, 2004
Dr. J.C. Ferencz	December 4, 1996	December 3, 2007
Dr. F.W. Furlong	October 4, 2000	October 3, 2006
Dr. D.A. Galbraith	November 3, 1994	February 4, 2007
Dr. G. D. Glancy	March 1, 1988	February 28, 2007
Dr. J.A.C. Gojer	October 21, 1998	November 30, 2007
Dr. G. A. Heasman	June 18, 1997	June 17, 2006
Dr. R.I. Hector	March 20, 2002	May 3, 2008
Dr. R.W. Hill	December 15, 2004	December 14, 2006
Dr. S.J. Hucker	December 11, 1996	February 1, 2008
Dr. A. Jones	October 6, 1999	October 5, 2005
Dr. P.F. Kelly	December 30, 1999	December 29, 2005
Dr. E. Kingstone	January 13, 1995	February 28, 2007
Dr. P.E. Klassen	October 13, 1999	October 12, 2005
Dr. A. Kolodziej	August 21, 2003	August 20, 2006
Dr. W.J. Komer	February 5, 1997	February 4, 2006
Dr. R. Kunjukrishnan	December 4, 1996	December 3, 2007
Dr. S. Malcolmson	December 3, 1997	March 4, 2007
Dr. P. Max	March 1, 1988	February 28, 2007
Dr. A. McDonald	August 24, 1998	August 23, 2007
Dr. G.G.J. Melanson	July 4, 2001	July 3, 2007
Dr. P. D. Norris	October 9, 2002	October 8, 2005
Dr. E.R. Pohlman	March 1, 1988	February 28, 2007
Dr. D.C. Pollock	April 9, 2003	April 8, 2006
Dr. M.V.A. Prakash	August 24, 1998	August 23, 2007
Dr. P. J. Prendergast	June 12, 1992	February 28, 2007
Dr. Q. Rae-Grant	April 20, 1994	April 19, 2008
Dr. R.B. Sheppard	December 11, 1996	December 10, 2007
Dr. G.S. Sidhu	December 7, 1994	May 31, 2008
Dr. W.R. Surphlis	March 30, 1999	April 19, 2008
Dr. S. Swaminath	December 8, 1993	April 19, 2008

<b>Member</b>	<b>Date First Appointed</b>	<b>Date Current Term Expires</b>
<b><u>Psychologists</u></b>		
Dr. R.B. Cormier	December 2, 1998	December 1, 2007
Dr. P. Firestone	October 9, 2002	October 8, 2005
Dr. G. B. Jones	March 31, 2000	March 30, 2006
Dr. L.O. Lightfoot	November 20, 1992	February 4, 2007
Dr. L.C. Litman	February 25, 1998	February 24, 2007
Dr. M. Mamak	January 27, 2005	January 26, 2008
Dr. G. Nexhipi	March 20, 2002	April 19, 2008
Dr. D. Nussbaum	December 3, 1997	March 23, 2007
Dr. N. Pollock	November 3, 1994	February 4, 2007
Dr. D.J. Simourd	December 1, 2004	November 30, 2007
Dr. G.M. Turrall	February 24, 1993	February 28, 2007
Dr. C.D. Webster	December 13, 2000	March 23, 2007
Dr. S.E. Wiseman	August 25, 2004	August 24, 2007
Dr. P.N. Wright	August 24, 1998	August 23, 2007
<b><u>Public Members</u></b>		
Dr. F.W.C. Abbott	April 29, 1999	April 28, 2008
Ms. M.M. Dow	February 6, 2002	February 5, 2008
Dr. M. C. Eben	June 25, 2003	June 24, 2006
Ms. L. D. Eccles	February 16, 2000	February 15, 2006
Ms. H. Elie	October 22, 1999	December 21, 2004
Ms. B. Hodgson	October 4, 2000	October 3, 2006
Mr. M.P. Keogh	May 13, 1998	May 12, 2004
Ms. S. Lee	October 18, 2000	October 17, 2006
Ms. G. Lockyer	May 17, 1999	May 16, 2005
Dr. L.L.Q. Lum	November 19, 1997	March 31, 2008
Ms. A. MacDonald	September 5, 2000	September 4, 2006
Ms. R. MacIntyre	January 13, 2005	January 12, 2008
Mr. W. M. Money	October 21, 1998	October 20, 2004
Ms. D.M. Ormston	May 17, 1999	May 16, 2005
Mr. A.R. Péladeau	November 18, 1998	November 17, 2004
Ms. L. Ritchie	March 30, 1999	March 29, 2005
Ms. J.J. Roy	December 16, 1998	March 1, 2008
Dr. T.K. Sheikh	April 9, 2003	April 8, 2006
Ms. B. C. Snowdon	October 17, 2001	October 16, 2007
Ms. L. Steadman	December 12, 2004	December 20, 2006
Ms. S. Wetmore	December 22, 1999	December 21, 2005
Ms. D. Winkler	May 12, 2004	May 11, 2007
Mr. D.R. Whall	November 18, 1998	November 17, 2004
Mr. P.E. Yorke	May 17, 1999	May 16, 2005

## 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.

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

## REVIEW BOARD PERSONNEL

*Up to March 31, 2005*

<b>Name</b>	<b>Position</b>
The Hon. Douglas H. Carruthers, Q.C.	Chair
Joe Wright (Janet Leiper)	Legal Counsel
Jim Curren	Chief Operating Officer and Registrar
Angie Grande	Executive Assistant
Sheila McDermott	Deputy Registrar
Victoria Bedrossian	Board Order Administrator
Roslyn Gunton	Board Order Administrator
Radica Roopsingh	Case Coordinator
Angie Mahadeo (Nandalall)	Case Coordinator
Jacqueline Gjorgijevski	Case Coordinator
Keegan Gruber	Distribution Coordinator
Edmund Smith	Distribution and Records Clerk
Maureen Gauder	Finance and Administrative Coordinator
Tricia Bonomo	Administrative and Financial Assistant
Olga Lenskaia	Bilingual Receptionist/Secretary
Sewranie Narine	Secretary to Chair/Counsel
John Smith	Systems Officer

## FINANCIAL INFORMATION

### *2004/2005 Expenditures by Standard Account*

<b>DESCRIPTION</b>	<b>2004-05 ALLOCATION</b>	<b>EXPENDITURES</b>	<b>SURPLUS / (DEFICIT)</b>
Salaries and Wages	855,100	868,413	(13,313)
Benefits	99,100	109,728	(10,628)
Transportation & Communications	574,900	534,234	40,666
Services	2,426,500	2,511,952	(85,452)
Supplies & Equipment	55,000	55,747	(747)
Sub-total ODOE	3,056,400	3,101,933	(45,533)
<b>Total</b>	<b>4,010,600</b>	<b>4,080,074</b>	<b>(69,474)</b>

Note: \$109,100 for ORB Accommodation is not included in Amount Total and is paid by Supply & Financial Services.

FINANCIAL INFORMATION (CONT'D)

2004/2005 Expenditures by Function

<b>FUNCTION</b>	<b>EXPENDITURES</b>
<b>Salaries &amp; Wages</b>	868,413
<b>Employee Benefits</b>	109,728
<b>Administration &amp; Hearing Support</b>	173,805
<b>Annual Hearing</b>	1,582,201
<b>Initial/Early Review Hearings</b>	909,564
<b>Education</b>	249,808
<b>Adjudicative Operations</b>	154,324
<b>Information Systems</b>	32,231
<b>Total</b>	<b>4,080,074</b>

Note: \$109,100 for ORB Accommodation is not included in Amount Total and is paid by Supply & Financial Services.

