



ONTARIO
REVIEW BOARD

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

December 31, 2007

The Honourable George Smitherman
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 2006/2007 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 2006/2007

(Fiscal Period - April 1, 2006 to March 31, 2007)



Ontario

Table of Contents

Message from the Chair.....	2
Overview of the Board.....	3
Jurisdiction of the Board	4
Organization of the Board	5
Members of the Board	6
Performance Measures and Targets.....	9
Review Board Personnel.....	12
Financial Information	12

MESSAGE FROM THE CHAIR



ONTARIO REVIEW BOARD

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

Message from the Chair

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

Each hearing conducted by the Ontario Review 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 Ontario Review 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 ONTARIO REVIEW 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*, 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 Ontario Review Board's procedures are directed solely by the *Criminal Code* 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 ONTARIO REVIEW BOARD

The Ontario Review Board has jurisdiction over individuals, referred to in the Criminal Code as "accused," who the Ontario courts have been found to be either unfit to stand trial, or not criminally responsible on account of mental disorder for the commission of a criminal offence.

Individuals found to be unfit to stand trial continue to be subject to the jurisdiction of the Ontario Review Board until it finds them fit to stand trial. At that time, they are returned to the courts to be dealt with in the normal course.

In dealing with accused found not criminally responsible on account of mental disorder for the commission of a criminal offence, the Ontario Review Board's responsibility is to hold a hearing and to make a disposition for each accused under its jurisdiction, taking 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 are made in each hearing conducted by the Ontario Review Board. They affect both the liberty of individuals and the safety of the public. The importance of the Ontario Review Board's decisions as they relate to these basic human rights is further underlined by the fact that appeals from the Ontario Review Board's decisions are made directly to the Court of Appeal for Ontario.

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

- 1) An absolute discharge
- 2) A discharge subject to conditions; or
- 3) Detention in a hospital, subject to conditions.

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

Other than absolute discharges, dispositions of the Ontario Review Board are to be reviewed by the Ontario Review Board at least once every twelve months.

Parties to a hearing typically include the accused, the person in charge of the hospital in which the accused is or may be detained or to which the accused reports and a representative of the Attorney General. Other persons who have a substantial interest in protecting the interests of the accused or the public may be made a party if the Ontario Review Board is of the opinion that it is just to designate such persons as parties.

ORGANIZATION OF THE ONTARIO REVIEW BOARD

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

As of March 31, 2007, the Ontario Review Board had 141 members. In addition to the Chair, Ontario Review Board members include 37 alternate chairs, 10 lawyers, 54 psychiatrists, 14 psychologists, and 25 public members. All are residents of Ontario. The members of the Ontario Review Board are appointed by Order-in-Council.

The *Criminal Code* stipulates that 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 experience, judges or retired judges.

The *Criminal Code* also specifies that a quorum for a hearing consists of three Ontario Review Board members. Each panel must have a Chairperson or Alternate Chairperson, a psychiatrist and any other member. The Ontario Review Board usually 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 unfit to stand trial or not criminally responsible on account of mental disorder for the commission of a criminal offence or offences with which he or she has been charged, is usually conducted in the hospital where the accused is detained or directed to attend, or in a court house. The Ontario Review Board no longer holds hearings in jails or detention centres. The Ontario Review Board is required by statute to hold an initial hearing within 45 or 90 days following the verdict of the court.

An annual hearing is required for those accused who are already subject to the Ontario Review Board's jurisdiction. Annual reviews are conducted in the provincial psychiatric facility where the accused is detained or reporting, in a courtroom, or other meeting rooms open to the public.

Those who are declared to be unfit to stand trial must be represented by counsel at all hearings conducted by the Ontario Review Board, and most of the accused found not criminally responsible on account of mental disorder for the commission of a criminal offence are also represented by counsel at all hearings. At each hearing, evidence from the hospital where the accused is detained or to which an accused is required to report is considered along with other evidence which may be adduced. Following deliberation by the panel of members of the Ontario Review Board, a written disposition and the written reason for that disposition are issued.

MEMBERS OF THE ONTARIO REVIEW BOARD

Member	Date First Appointed	Date Current Term Expires
Chair		
The Honourable D. H. Carruthers, Q.C.	September 11, 1996	December 10, 2008
Alternate Chairs (& Legal Members)		
Dr. H. Bloom	January 25, 1990	September 30, 2012
The Honourable J. W. Brooke, Q.C.	December 8, 1999	December 7, 2008
Dr. B.T. Butler	March 1, 1983	February 29, 2012
Ms. J.J.D. Burnside	May 4, 2005	May 3, 2008
The Honourable Douglas Coo	April 11, 2006	April 10, 2009
Mr. W.B. Donaldson	June 25, 2003	June 24, 2009
The Honourable J. Donnelly, Q.C.	September 1, 2005	August 31, 2008
The Honourable W.R. Dupont, Q.C.	December 2, 1999	May 16, 2008
Mr. S.J. Edgley	April 9, 2003	May 16, 2009
Ms. M. A. Finkelstein	January 5, 2006	January 4, 2009
The Honourable Madam Justice M. D. Forestell	June 2, 1993	January 13, 2008
Ms. C. Fromstein	August 25, 2004	August 24, 2012
Mr. J. Goldenberg	November 3, 2004	November 2, 2007
The Honourable G. Y. Goulard, Q.C.	June 30, 2000	June 21, 2009
The Honourable J.D. Greco	December 4, 2002	February 14, 2009
Ms. R. Grinberg	April 11, 2006	April 10, 2009
The Honourable E. P. Hartt	November 29, 2000	March 31, 2012
Ms. S. Kert	April 29, 1999	April 28, 2008
Mr. G.B. Kilpatrick	June 30, 2000	August 9, 2009
The Honourable Mr. Justice J.M. Labrosse	May 14, 1997	May 13, 2009
Ms. S.E. Lavine	December 4, 2002	December 3, 2008
Mr. C. Lewis, Q.C.	June 1, 2005	May 31, 2008
The Honourable H.R. Locke	October 21, 1998	October 20, 2007
Mr. C.M. MacIntyre, Q.C.	February 18, 2004	February 17, 2012
Mr. F.E. McArdle	December 4, 1996	February 28, 2007
The Honourable N.D. McRae	August 8, 2005	August 7, 2008
Mr. J. A. Neuberger	June 19, 2002	February 20, 2009
The Honourable John G.J. O'Driscoll	November 29, 2006	November 28, 2008
The Honourable D. F. O'Leary, Q.C.	November 21, 2001	January 12, 2008
Ms. M. S.G. Peeris	February 6, 2002	March 31, 2008
The Honourable H.D. Porter	September 5, 2000	September 4, 2006
The Honourable Mr. Justice R. D. Schneider	June 13, 2001	June 12, 2012
Ms. A.E. Spafford	July 4, 2001	July 3, 2012
Mr. R. Steinberg	July 15, 2005	July 14, 2008
Mr. R.C. Thompson Q.C.	November 18, 1998	February 1, 2007
Mr. J.A.S. Wilcox	December 2, 1998	March 6, 2012
The Honourable T. G. Zuber, Q.C.	December 21, 2001	January 12, 2008
Legal Members		
Mr. J. Alexander	September 1, 2005	August 31, 2008
Mr. R. J. Braudo	August 21, 2001	August 20, 2012
Ms. S.T. Cheng	October 7, 2004	October 6, 2007
Mr. R.G. Coates	February 7, 2007	February 6, 2009
The Honourable M.P. Forestell, Q.C.	January 5, 2006	January 4, 2009

Member	Date First Appointed	Date Current Term Expires
Mr. D. Giuffrida	August 25, 2004	August 24, 2007
Ms. J. Ross	May 11, 2005	May 10, 2008
The Honourable Mr. Justice J.C.L. Scime	January 5, 2006	January 4, 2009
Mr. S. Wilks	May 4, 2005	May 3, 2008
Ms. F. Yaskiel	April 11, 2006	April 10, 2009
Psychiatrists		
Dr. A.G. Ahmed	August 25, 2004	August 24, 2012
Dr. R.M. Andreychuk	March 21, 2007	March 20, 2009
Dr. R.B. Balmaceda	October 21, 1998	October 20, 2007
Dr. M.H. Ben-Aron	October 4, 2000	October 31, 2011
Dr. R.F. Billings	March 1, 1988	February 29, 2012
Dr. B. Bordoff	July 31, 2001	July 30, 2012
Dr. D. Bourget	May 28, 1997	May 27, 2009
Dr. J.M.W. Bradford	February 1, 1984	February 29, 2012
Dr. M. Brown	June 30, 2000	June 29, 2006
Dr. R. Buckingham	June 12, 1992	February 29, 2012
Dr. D.S. Byers	March 1, 1983	February 29, 2012
Dr. L.E. Cappe	August 24, 1998	August 23, 2012
Dr. G.A. Chaimowitz	December 4, 1996	December 3, 2007
Dr. R. D. Chandrasena	December 6, 2000	February 3, 2012
Dr. P.E. Cook	May 29, 2002	December 21, 2008
Dr. A. Côté	November 30, 1989	February 29, 2012
Dr. I. Côté	June 13, 2001	June 12, 2012
Dr. P.L. Darby	June 12, 1992	February 29, 2012
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, 2007
Dr. J.C. Ferencz	December 4, 1996	December 3, 2007
Dr. F.W. Furlong	October 4, 2000	October 3, 2009
Dr. D.A. Galbraith	November 3, 1994	February 3, 2012
Dr. G. D. Glancy	March 1, 1988	February 29, 2012
Dr. J.A.C. Gojer	October 21, 1998	November 30, 2007
Dr. G. A. Heasman	June 18, 1997	June 17, 2009
Dr. R.I. Hector	March 20, 2002	May 3, 2008
Dr. R.W. Hill	December 15, 2004	December 14, 2011
Dr. S.J. Hucker	December 11, 1996	February 1, 2008
Dr. A. Jones	October 6, 1999	November 1, 2008
Dr. P.F. Kelly	December 30, 1999	December 29, 2008
Dr. E. Kingstone	January 13, 1995	April 17, 2012
Dr. P.E. Klassen	October 13, 1999	October 12, 2008
Dr. A. Kolodziej	August 21, 2003	October 4, 2011
Dr. W.J. Komer	February 5, 1997	May 2, 2009
Dr. R. Kunjukrishnan	December 4, 1996	December 3, 2007
Dr. S. Malcolmson	December 3, 1997	March 4, 2012
Dr. P. Max	March 1, 1988	May 31, 2007
Dr. A. McDonald	August 24, 1998	August 23, 2012
Dr. G.G.J. Melanson	July 4, 2001	July 3, 2012
Dr. P. D. Norris	October 9, 2002	January 17, 2009
Dr. D. Pallandi	March 1, 2006	February 28, 2009
Dr. E.R. Pohlman	March 1, 1988	February 29, 2012
Dr. D.C. Pollock	April 9, 2003	April 8, 2006

Member	Date First Appointed	Date Current Term Expires
Dr. M.V.A. Prakash	August 24, 1998	August 23, 2012
Dr. P. J. Prendergast	June 12, 1992	February 29, 2012
Dr. Q. Rae-Grant	April 20, 1994	April 19, 2008
Dr. J. Rootenberg	June 22, 2006	June 21, 2009
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
Dr. Z. Waisman	January 15, 2007	January 14, 2009
Psychologists		
Dr. R.B. Cormier	December 2, 1998	December 1, 2007
Dr. P. Firestone	October 9, 2002	October 17, 2008
Dr. G. B. Jones	March 31, 2000	March 30, 2009
Dr. L.O. Lightfoot	November 20, 1992	February 3, 2012
Dr. L.C. Litman	February 25, 1998	February 24, 2012
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, 2012
Dr. N. Pollock	November 3, 1994	February 3, 2012
Dr. D.J. Simourd	December 1, 2004	November 30, 2007
Dr. G.M. Turrall	February 24, 1993	February 29, 2012
Dr. C.D. Webster	December 13, 2000	March 23, 2012
Dr. S.E. Wiseman	August 25, 2004	August 24, 2012
Dr. P.N. Wright	August 24, 1998	August 23, 2012
Public Members		
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	March 28, 2009
Ms. B. Hodgson	October 4, 2000	October 3, 2006
Ms. S. Lee	October 18, 2000	October 17, 2006
Ms. N. Lemieux-McKinnon	July 15, 2005	July 14, 2008
Ms. E. Little	December 7, 2005	December 6, 2008
Ms. M. Linton	October 5, 2005	October 4, 2008
Dr. L.L.Q. Lum	November 19, 1997	March 31, 2008
Mr. Y. Mahdavi	July 15, 2005	July 14, 2008
Ms. K.A. Maharaj	March 21, 2007	March 20, 2009
Ms. A. MacDonald	September 5, 2000	September 4, 2006
Ms. R. MacIntyre	January 13, 2005	January 12, 2008
Mr. A. Okon	April 20, 2005	April 19, 2008
Ms. D.M. Ormston	May 17, 1999	February 2, 2009
Ms. J.J. Roy	December 16, 1998	March 1, 2008
Mr. Paul Schur	May 30, 2006	May 29, 2009
Dr. T.K. Sheikh	April 9, 2003	April 8, 2006
Ms. B. C. Snowdon	October 17, 2001	October 16, 2007
Ms. L. Steadman	December 21, 2004	December 20, 2009
Mr. J. Teevan	August 8, 2005	August 7, 2008
Mr. K. Turner	January 15, 2007	January 14, 2009
Ms. D. Winkler	May 12, 2004	May 11, 2012
Ms. C. Wolfe	November 2, 2005	November 1, 2008

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.

During the fiscal year 2006/2007 the courts found 127 accused to be unfit to stand trial and 184 not criminally responsible on account of mental disorder for the commission of a criminal offence for a total of 311 new accused coming under the jurisdiction of the Board (see Figure 1). This represents a 16% increase in the number of new accused over the previous year and a 61% increase since 2004/05.

The growing number of new accused has a significant financial impact on the Ontario Review Board. The initial hearings for these new accused are more expensive to convene as they require more travel and accommodation. The hearings are held where the accused is being detained or resides. These matters are usually heard singly rather than organized with a group of other cases as are the annual hearings because they need to be conducted within 45 days of the court verdict. There are often adjournments when only minimal information is available as to the mental condition of the accused or what, if any, threat the accused poses to the safety of the public. In fact, amendments to the *Criminal Code* that came into force on June 30, 2006 attempted to address this lack of information and there are now some provisions that allow a Review Board to order an assessment of the accused if such evidence is necessary to make a disposition.

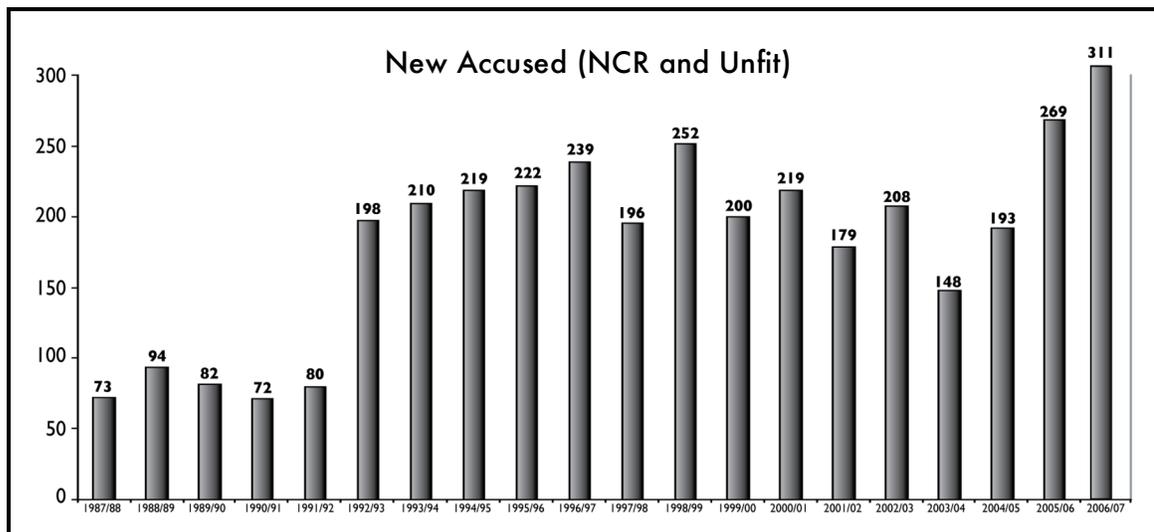


Figure 1 - Number of New Accused

After making a disposition, the Ontario 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, on 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. An early review is mandatory if requested by the hospital or if an individual's liberties are restricted for more than seven days. The total number of all hearings conducted by the Board in 2006/07 was 1,534 (see Figure 2).

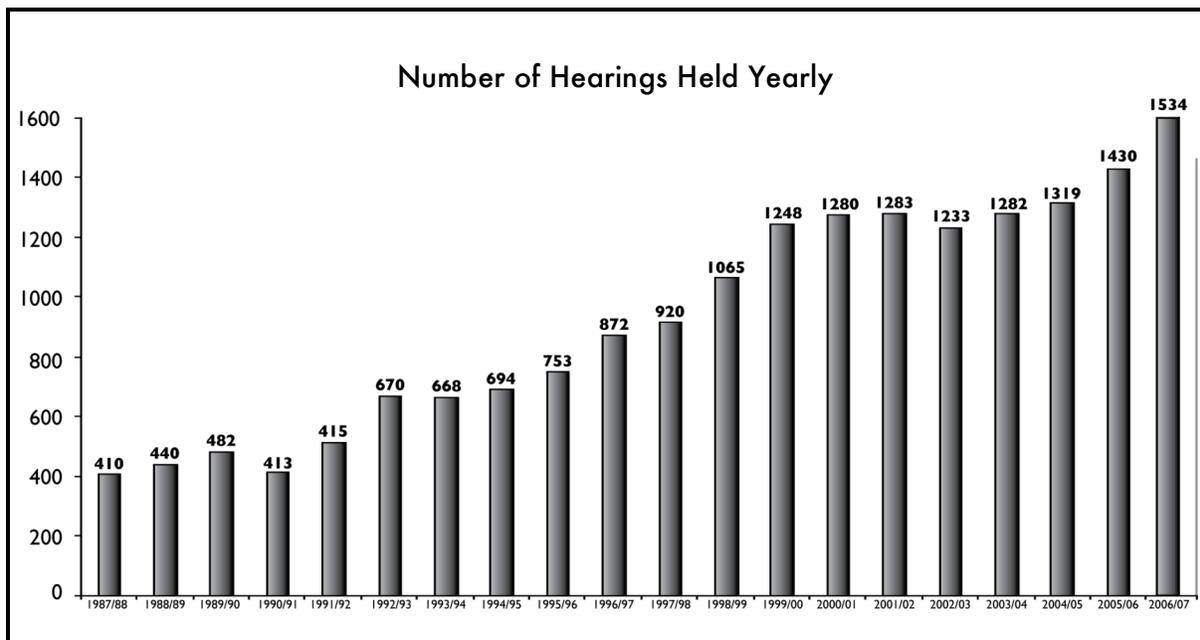


Figure 2 - Number of Hearings

Those found Unfit to Stand Trial remain under the jurisdiction of the Board until such time as a court either finds the accused fit to stand trial or until the court grants a stay for those unfit accused it finds both permanently unfit and not a significant threat to the safety of the public.

Those accused that are not criminally responsible (NCR) or under the former term not guilty by reason of insanity (NGRI) remain under the jurisdiction of the Ontario Review Board until such time as they are granted an absolute discharge by the Board. In 1999 the Supreme Court decision in Winko clarified the test for an absolute discharge, and the Ontario Review Board experienced a significant increase in the number of absolute discharges it granted (see Figure 3).

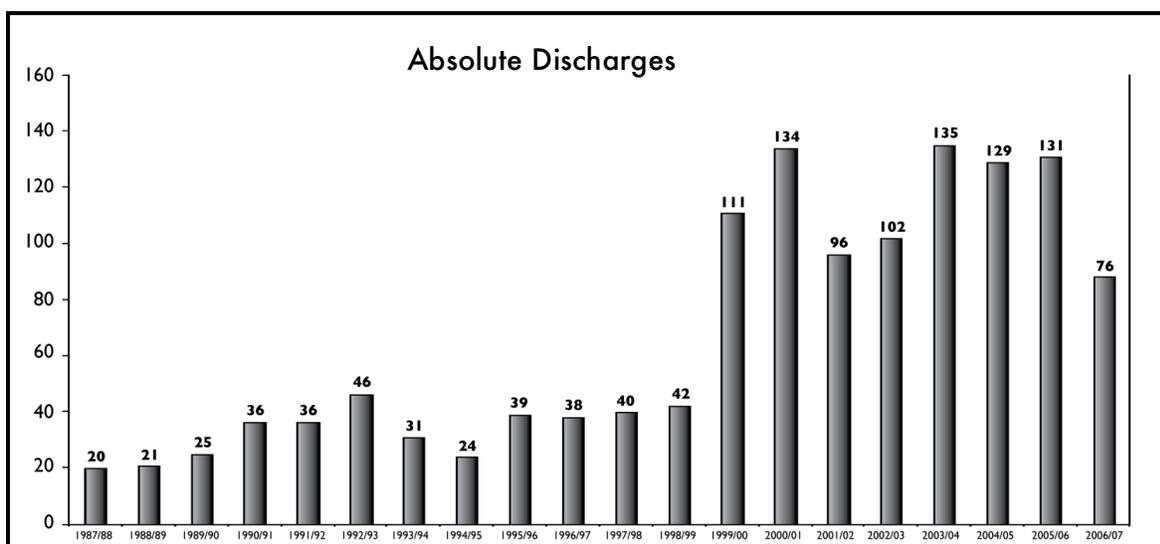


Figure 3 - Absolute Discharges

As a result the Ontario Review Board no longer sees the rapid growth in the number of accused that it did in the years 1992/93 to 2001/02, although it continues to see an increase annually in the number of accused subject to its jurisdiction.

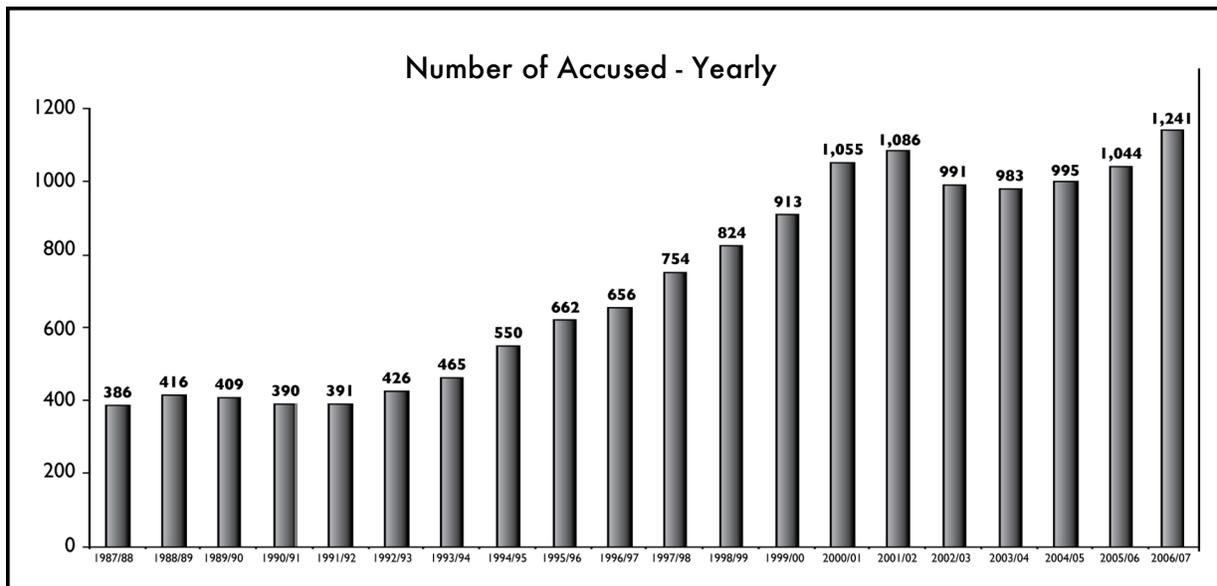


Figure 4 – Accused Yearly

The variables as outlined above dictate the Ontario Review Board’s workload. They can fluctuate dramatically from month to month. The Ontario Review 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 an adjourned 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 will continue to pursue methods of increasing the efficiency of its operations and processes, and the delivery of a high quality of service.

REVIEW BOARD PERSONNEL

Up to March 31, 2007

Name	Position
The Honourable Douglas H. Carruthers, Q.C.	Chair
Joe Wright	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	Case Coordinator
Jacqueline Gjorgijevski	Case Coordinator
Rhea Castro	Distribution Coordinator
Jolanta Tuz	Distribution and Records Clerk
Olga Lenskaia	Coordinator, Business Operations
Fran Bolton	Administrative and Financial Assistant
Eileen Safraj	Bilingual Receptionist/Secretary
Sewranie Narine	Secretary to Chair/Counsel
John Smith	Systems Officer

FINANCIAL INFORMATION

2006/2007 Expenditures by Standard Account

Description	2006-07 Allocation	Expenditures	Surplus / (Deficit)
Salaries and Wages	855,100	945,230	(90,130)
Benefits	99,100	94,155	4,945
Transportation & Communications	527,800	512,789	15,011
Services	2,464,600	3,491,354	(1,026,754)
Supplies & Equipment	56,600	93,089	(36,489)
Total	4,003,200	5,136,617	(1,133,417)

FINANCIAL INFORMATION CONTINUED

2006/2007 Expenditures by Function

Function	Expenditures
Salaries & Wages	945,230
Employee Benefits	94,155
Administration & Hearing Support	315,199
Annual Hearings	1,774,701
Initial/Early Review Hearings	1,233,307
Education	332,604
Adjudicative Operations	228,241
Information Systems	106,180
ORB Accommodation	107,000
Total	5,136,617

2006/2007 ODOE Expenditures by Function

