



# Ontario Review Board Business Plan 2024-2027

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## Introduction

The Ontario Review Board (the “Board”) is an adjudicative tribunal established under Part XX.I of the *Criminal Code of Canada*. Every province and territory in Canada is required to have a Review Board in order to supervise and determine the issues of liberty for those persons found by the courts to be either unfit to stand trial (“unfit”) or not criminally responsible on account of mental disorder (“NCR”), to maintain jurisdiction over these accused persons and to provide dispositions which maximize the liberty of the individual while safeguarding the public.

## Mandate

The Board’s mandate is to review the cases of individuals who have been found unfit to stand trial or not criminally responsible for the commission of a crime due to a mental disorder.

As mentioned, the *Criminal Code* mandates that each province and territory establish or designate a Review Board that will oversee people whom a court has found unfit to stand trial or not criminally responsible due to mental disorder:

*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... a Review Board shall be treated as having been established under the laws of the province. (s.672.38)*

The Ontario Review Board is an independent adjudicative tribunal governed by the *Criminal Code of Canada* and portions of 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 made directly to the Court of Appeal for Ontario.

The Board is required by law to make annual dispositions for each accused person under its jurisdiction, and in doing so it must take into account 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. In meeting this mandate, the Board must accord proper consideration to the interests of all those involved in its process. In practical terms, the Board is responsible for conducting close to 2000 hearings annually for nearly 1700 persons under its jurisdiction and to process dispositions and reasons for those dispositions to meet its statutory obligations.

Through quasi-judicial hearings, the Board makes or reviews Dispositions, which delineate the restrictions on the liberty of the accused. Parties to a hearing include the accused and the person in charge of the hospital in which the accused is detained or to

which the accused reports and may include the Attorney General of the province where the disposition is to be made or from which the accused is transferred, and any other person who has a substantial interest in protecting the interests of the accused.

## **Overview of Board's Current and Forthcoming Programs/Activities**

### ***Core Functions:***

The Board's core function is to hold hearings and make dispositions and decisions in accordance with Part XX.I of the *Criminal Code*.

When a verdict of not criminally responsible on account of mental disorder or unfit to stand trial is rendered, the Review Board must hold a hearing and make a disposition not later than 45 days after the verdict was rendered. In the event that the court makes an initial disposition, the Review Board has 90 days to review that disposition and make its own.

At the conclusion of a hearing, the Ontario Review Board makes whichever of the following three dispositions that is necessary and appropriate in the circumstances:

- 1) An absolute discharge (in NCR cases only), if the accused person is not a significant threat to the safety of the public;
- 2) A discharge subject to such conditions as are appropriate; or
- 3) An order detaining the accused in custody in a hospital, subject to such conditions as are appropriate.

After making a disposition, the Review Board must hold another hearing within 12 months, and every 12 months thereafter for as long as a disposition remains in force, to review any disposition that it has made in respect of an accused, other than an absolute discharge.

The Review Board issues its reasons for disposition as soon as it is practicable after issuing its disposition.

### ***Accused:***

At present, the Board maintains jurisdiction over nearly 1700 persons.

### ***Pre-Hearing Conferences:***

The Board will continue to convene pre-hearing conferences to manage complex or potentially lengthy cases, for any case identified by the Board or any party as requiring more than 1.5 hours of hearing time. This process has allowed the Board to best rationalize the time allotted for annual review hearings. This process also plays a key role in ensuring that the Board acts in a proactive manner to identify and narrow issues and to

allot appropriate resources to cases that have greater complexity.

Based on recent trends, the Board expects an average of 200 new accused per year over the next few years. The ongoing influx of new accused continues to have a significant financial impact on the Ontario Review Board. The initial hearings for these new accused are particularly expensive to convene as they must be scheduled on an *ad hoc* basis and typically require more travel and accommodation. The hearings are held where the accused is 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. It is often necessary to adjourn these hearings when insufficient 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.

To address this problem, the board will also continue to convene pre-hearing conferences for all initial hearings in order to narrow issues and to determine whether an assessment is required, and any witnesses need to be called. Where an accused is not connected to a hospital at the time of an initial hearing the ORB will ensure that there is sufficient information to conduct a hearing. The Health Boards Secretariat has agreed to fund assessments ordered by the ORB and is expected to continue to do so.

***Potential Efficiency Measures Being Developed:***

- 1) The Board will continue to maintain and update a members' section of its website to permit members to easily access resources.
- 2) The Board will continue to provide new member training to prepare new members to appropriately contribute to the hearing process. This training is in the process of being revised and updated to make it more effective and more practical for members. In addition, refresher training is being developed to assist legal members to appropriately transition to the roll of Alternate Chair and take responsibility for the conduct of hearings.
- 3) The Board will continue to provide troubleshooting to Alternate Chairs and training to new Legal Members, including with respect to the use of electronic exhibits, including the required electronic exhibit stamping process. Electronic exhibit training is required because the Board no longer produces hard copies of hearing materials and all physical files have been archived. In future all files will be stored electronically.
- 4) The Board will continue to develop best practices to support electronic records management and archiving by synchronizing a process for filing hearing documents received via the Board's secure site in combination with a future case management system. The Board hopes to be able to use OPSdocs in the near future. It has been identified as a solution that will allow board members

and parties efficient and secure transmission to both send and receive hearing documents.

- 5) In May 2023, the Board completed a hospital report project in collaboration with provincial forensic facilities in order to deal with the escalating problem of excessively lengthy and late hospital reports and other related issues. The objective was to assist in keeping Board hearings manageable, efficient and cost-effective for the litigants, including the hospitals, and for the Board. The Board produced both a report of its work on this initiative and a hospital report template to assist hospitals in the preparation of hospital reports. The Board intends to undertake the task of measuring the outcome of the initiative.
- 6) In November 2023 the Board formally announced the creation of a Users Consultation Forum. The purpose of this forum is to give the Chair an opportunity to meet on an occasional basis with a representative group of counsel who appear regularly before the Board on behalf of accused persons, hospitals and the Attorney General, in order to benefit from the perspectives of those counsel on issues of concern to the work of the Board. The first meeting of the Forum was held in January 2024.

### ***Practice Directions:***

The Board intends to make increased use of practice Directions to enhance awareness of new Board policies intended to permit the board to fulfil its mandate fairly and more efficiently.

### ***New Rulings:***

On September 1, 2023, after three years of conducting hearings remotely during the COVID pandemic, the Board resumed conducting its hearings in-person at the hospital where accused persons are detained or report. This was done both because the *Criminal Code* creates a presumption that Board proceedings be conducted in person, and in recognition of the fact that in-person participation and advocacy remain essential features of our justice system when substantive decisions affecting liberty are made. At the same time, the board recognized that in exceptional circumstances, virtual appearances should be permitted. As a result, guidance for requesting a virtual appearance was placed on the board's website. In addition, for the benefit of Board members and participants, the Chair issued a ruling that outlined the considerations that would be taken into account in determining whether exceptional circumstances exist in a particular matter. This ruling was also placed on the Board's website. In March 2024, the Board began implementing a pilot project intended to permit the timelier conduct of Restriction of Liberty ("ROL") hearings (hearings required to be held expeditiously when a hospital significantly increases the restrictions of an accused's liberty). The project involves the creation of regularly scheduled panels that will be positioned to hear ROL's virtually from any hospital.

## Organizational Structure

### **Board Members:**

The Lieutenant Governor in Council appoints each member of the Review Board by an Order-in-Council. The *Criminal Code* requires the Board to have no fewer than five members, including at least one member qualified to practice psychiatry. In the event that there is only one such member, there must be one other member who has “training and experience in the field of mental health and is entitled to practice medicine or psychology.” Members of the Ontario Review Board must be residents of Ontario.

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 judicial office. The *Criminal Code* also permits an “Alternate Chairperson” to act on the Chairperson’s behalf. A quorum of the Board consists of the Chairperson, a psychiatrist and “any other member.”

As of December 31, 2023, the Ontario Review Board had 136 part time members. In addition to a full time Chairperson, the Board’s members included 33 Alternate Chairpersons, 19 legal members, 52 psychiatrists, 17 psychologists, and 14 public members.

The Board’s ability to perform its mandate requires timely appointments and reappointments of members. The Board must schedule and hold approximately 2000 hearings annually.

Members of the Board are located throughout the province and hearings are provided in English or French.

### **Staff Numbers**

The Board’s operations will continue to be supported by a staffing complement of 18 members consisting of the positions listed below.

1. Chair
2. Registrar and Senior Manager
3. Executive Assistant
4. Deputy Registrar
5. Board Order Administrator
6. Board Order Administrator
7. Board Order Administrator
8. Case Coordinator
9. Case Coordinator
10. Case Coordinator

11. Case Coordinator
12. Distribution Coordinator
13. Distribution and Records Clerk
14. Coordinator, Business Operations
15. Administrative and Financial Assistant
16. Bilingual Receptionist/Secretary
17. Secretary to Chair/Counsel
18. Systems Officer

## Strategic Direction

The work of the Review Board continues to evolve quantitatively and qualitatively. There has been a well-documented increase in the number of accused persons coming under the jurisdiction of the Review Board. As well, in addition to its statutory decision-making responsibilities, the Review Board has been determined to possess the jurisdiction to rule on *Charter* applications with respect to matters that fall within its statutory mandate and to provide remedies. These factors require the Board to provide continuing legal supports for members to ensure that both the Board's processes, and its application of substantive law to its decision making, are *Charter* compliant. This, in turn, enhances the administration of justice, and better serves the public and the parties who appear before the Board.

As a result, it is imperative that the Board understands and is able to adapt to changing circumstances to optimize the carrying out of its mandate, and to accommodate and strengthen relationships with its stakeholders. This in turn makes it essential that the Board provide training sessions to new members and regular education sessions to all members and keep them current with new developments in the law. In 2024-2027 the Ontario Review Board will continue to focus on the following key areas:

## Initiatives Involving Third Parties

- As one of the busiest Review Boards in Canada, the Ontario Review Board often assumes a leadership role. The Board will continue to support a collaborative relationship with other provincial Review Boards through increased communication and the attendance of its senior staff at the annual conference of Review Boards Canada.
- The Board will make itself available to field and respond to inquiries from judicial, legal, medical and academic communities across Canada about its mandate and jurisdiction.
- The Board will remain accessible to the judiciary for consultation on issues that may arise when an accused person is found NCR or unfit, will endeavour to enhance the timeliness and quality of service provided to the criminal justice



system and the community at large and will foster support for accused persons who fall within the Board's jurisdiction.

- The Board will work with the federal government and other provincial Review Boards to support research and recommend policy development, particularly by way of amendments to the *Criminal Code*.
- The Board will continue its efforts to rationalize and promote efficient hearings, especially in respect of initial hearings and restriction of liberty hearings. This may involve consultation with stakeholders and initiating pilot projects to test scheduling and hearing procedures. Pre-hearing conferences will continue to be convened for all initial hearings where the accused is either detained in jail or living in the community, in order to narrow issues, determine if an assessment is required, and whether witnesses need to be called. Where an accused is not connected to a hospital at the time of an initial hearing the ORB will ensure that there is sufficient information to conduct a hearing.
- The Board will support academic research projects that endeavour to produce statistical material for further development of the law in relation to the mandate of the board, and the improvement of our processes to enhance the fulfilment of our mandate. One such project is currently being undertaken by the forensic director of St. Joseph's Healthcare Hamilton.

## **Information Management and Information Technology**

### ***The Board will:***

- Continue to provide dispositions and reasons for dispositions to legal research platforms including QuickLaw, WestLaw, and CanLii, allowing the legal community access to Ontario Review Board decisions and promoting the transparency of the process.
- Continue to update and expand its web site to inform the public and the media about the Ontario Review Board.
- Continue to keep the Ontario Review Board's website fully compliant with the *Accessibility for Ontarians with Disabilities Act ("AODA")* and the *French Language Services Act ("FLS")*.
- Continue to develop capacity for electronic communication with Board members and parties in an effort to increase efficiency.
- Continue to engage in green initiatives by promoting electronic distribution of documents and maximize records management efficiencies by scanning and electronically filing hearing and exhibit materials.

- Continue to build a Member Resources section on its website which will include up to date legal support, member-accessible versions of Part XX.I of the *Criminal Code*, provide links to caselaw and Board dispositions, and include an e-binder of significant decisions with a detailed Table of Contents and Member-supported tools, including informational Bulletins of legal and clinical interest.
- Continue its efforts to improve the use of technology and modernize service delivery with respect to the following:
  - Collaborating with I & IT staff to continue to enhance the process around DeliverySlip, the cloud managed solution which allows for secure messages to avoid travel via the internet and enables efficient exchange of information and collaboration between the Board, its members and parties.
  - Collaborating with Corporate Management Branch of the Ministry of Health regarding a new case management system. The Board's management team will have discussions with the developers and Ministry consultants to explain in full the Board's process and how a new case management system can be tailored/utilized to specifically meet the Board's needs.

## **Education and Continuous Learning**

The Board has a firm commitment to providing a high quality of service and expertise for the community and the accused persons who come before the Board. Board member education and training is a key component of this commitment and will be carried out in a number of ways throughout 2024-2027:

- **New Board Member Training:** New members will continue to receive reading materials and resources directed specifically to their needs including slides, case law, and textbook material. In addition, new members are provided with in-person procedural, legal, psychiatric and financial training and opportunities to observe hearings prior to being scheduled to sit on hearings.
- **Annual Education:** The Board will continue to convene an annual education session for all members to provide them with the most up-to-date legal, clinical and technological information relevant to their day-to-day work as decision-makers. While the delivery of educational sessions was a tremendous challenge during the pandemic, the Board nevertheless continued to provide informational updates to our membership through the use of audio-visual technology. In May 2023, for the first time in four years, the Board was able to hold an in-person education session, and will seek approval to continue to do

so in the future.

- Periodic Communiqués: The Board will communicate procedural and policy positions to its members throughout the year, and will ensure that its members are kept up to date with the scientific, clinical, and legal developments relevant to the adjudicative, forensic and decision-making processes that they must engage in.
- Resources: The Board will provide the resources, training and team building to both staff members and Board members that are appropriate for the roles and responsibilities of each group.
- Advocacy: The Board will continue to provide recommendations to the Attorney General of Canada regarding *Criminal Code* amendments that would optimize the Board's ability to fulfill its mandate.

## Relationship with the Ministry of Health

The *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* ("ATAGAA"), which was proclaimed in 2011, strives to ensure that Boards such as the Ontario Review Board function accountably, transparently and efficiently, while remaining independent in their decision-making.

As required by ATAGAA, the Board has filed and made publicly available eight governance and public accountability documents. The Board has participated in two administrative reviews of the tribunal which is required by the Act once every six years. The Board, and the Ministry, have agreed to move forward collaboratively with implementation planning on some of the ATAGAA Review recommendations such as improving technology.

The following eight documents have been completed by the ORB and will continue to be publicly accessible through the ORB's website:

- 1) Memorandum of Understanding
- 2) Mandate and Mission Statement
- 3) Consultation Policy
- 4) Service Standard Policy
- 5) Ethics Plan
- 6) Member Accountability Framework
- 7) Business Plan
- 8) Annual Report

The Board has implemented a recommendation from the first ATAGAA review and

continues to develop/expand further the plan to modernize operations by improving the use of technology to modernize service delivery and continue to meet its goals.

## **Environmental Scan: Assessment of Issues Facing the Board**

### ***An Increasing Caseload:***

At present, the Board has nearly 1700 persons subject to its jurisdiction. Each of these individuals has come under the Board's jurisdiction following a verdict in court of either unfit to stand trial, not criminally responsible due to mental disorder or not guilty by reason of insanity, due to mental disorder. The latter verdict refers to those persons who entered the system prior to 1992 when Bill C-30 changed the verdict of “not guilty by reason of insanity” to “not criminally responsible.”

### ***An Increase in Hearings:***

The Board is required to hold an initial hearing for each new accused person within a prescribed time period (See Performance Measures and Targets section for specific timelines) and must hold an annual hearing for every accused person already in the system. Since more individuals are entering the system than are exiting it, the Board is experiencing an increase in both initial and annual hearings. The increase in the number of hearings exert ongoing financial and staff pressures on the Board.

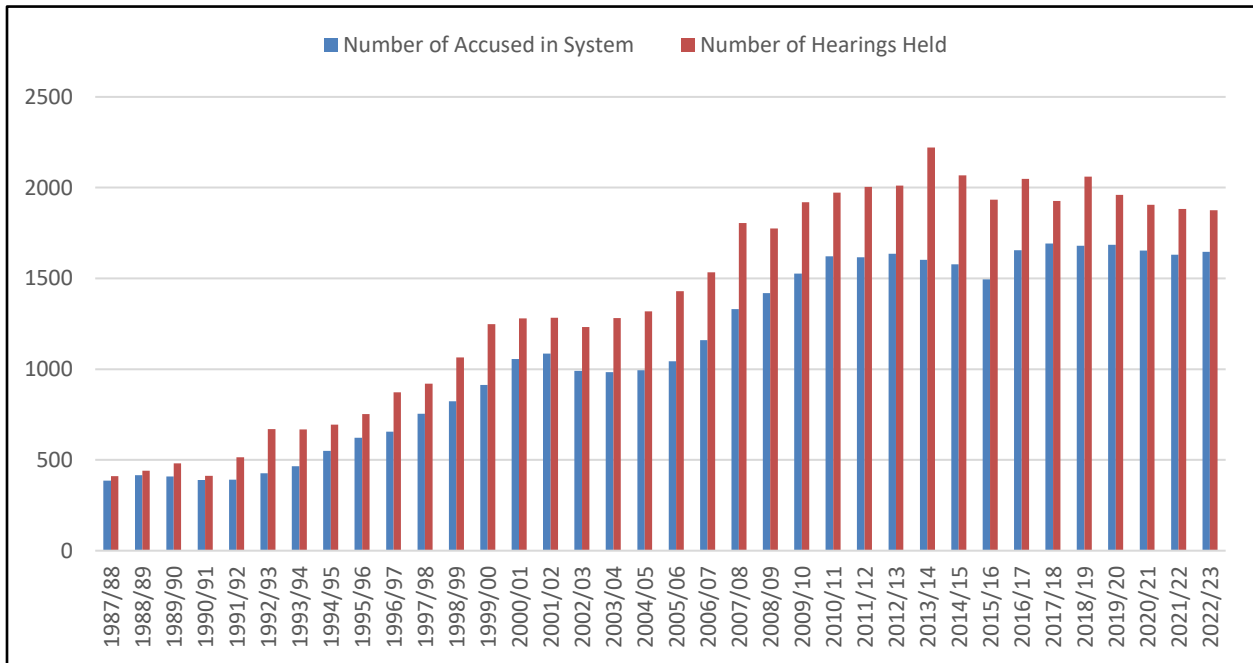
### ***Virtual Hearings and Transition to In-Person Hearings:***

Since the Board's creation, and until the COVID pandemic, the Board conducted its hearings in person. This was done both because the *Criminal Code* creates a presumption that Board proceedings be conducted in person, and in recognition of the fact that in-person participation and advocacy remain essential features of our justice system when substantive decisions affecting liberty are made. As mentioned above, for three years during the COVID pandemic the Board conducted its hearings remotely, by video conference. This was done out of necessity: the Board had to continue to meet its mandate and comply with legislated timelines established by the *Criminal Code*.

As discussed above, as of September 1, 2023, the Board resumed conducting its hearings in-person at the hospital where accused persons are detained or report. The Board will continue to do so going forward with few exceptions, both because the *Criminal Code* creates a presumption that Board proceedings be conducted in person, and in recognition of the fact that in-person participation and advocacy remain essential features of our justice system when substantive decisions affecting liberty are made. The transition back to in-person hearings put additional strain on staff and attracted criticism from some members of the defence bar, who benefitted from the flexibility of remote hearings. The criticism required extraordinary attention from the Chair and senior staff. However, the recognition by the Board that virtual appearances may be permitted in exceptional

circumstances, the creation of a clear and simple process to request a virtual appearance, and the passage of time have virtually eliminated the criticism and have eased the burden of the transition on staff.

**Number of Accused vs. Number of Hearings:**



The number of accused persons who are subject to the jurisdiction of the Board has increased by approximately 84% since 1999. For example, in 1999/2000, the number of accused persons under the Board’s jurisdiction was 913. Over the past ten years, there has been approximately 200 new accused per year, which resulted in an increased number of hearings. While the Board conducted 1233 hearings in 2002/2003, it conducted 1867 hearings in 2022/2023.

In addition to the increase in the number of NCR and unfit verdicts through the indicated time period, the board has also experienced an increase in hearing complexity, public scrutiny, and media attention to high profile cases. In addition, appellate decisions have re-emphasized the need to schedule and conduct hearings without delay, increasing administrative and fiscal pressures. The Board has no control over these trends.

**Changes to the Criminal Code:**

In 2006, Part XX.I was amended in a number of ways. Some of these amendments have altered the jurisdiction of the Board and assisted it in its mandate to seek out and obtain information. Others have increased the obligations of the Board and resulted in increased costs. The consequences of these amendments are on-going. The following amendments

are worthy of note:

- Victim Impact Evidence and the Participation of Victims:

The Board is satisfying the requirement that it notify victims of upcoming proceedings and of their statutory right to provide a victim impact statement in writing or to attend and read their victim impact statement to the Board in person. Since the 2006 amendments to the *Criminal Code*, and continuing to date, increased administrative time is required to meet the Board's obligations to victims, and to provide them with information about the Board. The Board's database of notified victims surpasses the number of accused persons under the Board's jurisdiction.

- Board Ordered Assessments:

The ability of the Review Board to order assessments under section 672.121 of the *Criminal Code* enhances the ability of the Board to carry out its inquisitorial function and to carry out its mandate. The Review Board makes assessment orders and receives a report from a psychiatrist in accordance with each of those orders. In 2022/2023, the Board ordered 27 assessments.

- Board Recommended Stays of Proceedings for Permanently Unfit Individuals:

Pursuant to the Supreme Court of Canada's decision in the *Demers* case, the Review Board may now make a recommendation that the court that found the accused unfit hold a hearing and grant a stay of proceedings. That is contingent upon the Board concluding that the person is both permanently unfit and no longer a significant threat to the safety of the public. This legislated change allows the courts to retain the final decision-making power but also implicates Review Boards in making recommendations. This amendment permits mentally disordered persons who are permanently unfit to be discharged from the system who would, under the previous statutory regime, not be eligible for an absolute discharge despite no longer being a threat to the public. In 2022/2023, 6 unfit accused were recommended by the Board for stays of proceedings under this section.

- Bill C-14 came into force on July 10, 2014. The Board's consequential additional responsibilities have added considerably to the time required to manage the Board's case load. The Board is now required to notify victims whenever an accused is either absolutely or conditionally discharged, every time the Board sends a High Risk Accused ('HRA') to court for review, and every time the Board receives a new accused with a verdict of NCR. The Board is obligated to adjourn hearings where appropriate to permit the filing of victim impact statements.

## Resources Needed To Meet Goals and Objectives

### *Financial Resources:*

The Board no longer receives its annual funding allocation through a separate Vote and Item. As of April 1, 2023 and going forward, the Board's funding will be allocated through the Ministry. The Board's allocation remained constant at \$3,975,400 from 2008-09 through 2011-12 and throughout this period the Board exceeded its budget in order to meet its statutory obligation. The deficit was a result of an increasing caseload and related operational costs of the Board. The government 'right-sized' the Board's allocation to \$7,375,400 in the 2012-13 fiscal year. However, based on recent trends, the Ontario Review Board does not anticipate any significant change in the short term cost pressures flowing from caseloads.

	2019-2020	2020-2021	2021-2022*	2022-2023
Printed Estimates	7,375,400	7,137,000	7,102,100	7,112,700
Expenditure	6,566,068	6,001,777	6,600,703	6,733,732

\*In the noted year there was a comparative restatement increase of \$10,600 in published Printed Estimates regarding information technology administration.

### Proposed Operating Expenditures

Standard Accounts	2023-2024	2024-2025	2025-2026	2026-2027
Salaries & Wages	1,325,992	1,352,512	1,379,562	1,407,153
Employee Benefits	192,269	196,114	200,036	204,037
Transportation & Communication	356,294	363,420	370,689	378,102
Services	4,834,295	4,930,981	5,029,600	5,130,192
Supplies & Equipment	18,011	18,371	18,739	19,113
<b>Total</b>	<b>6,726,861</b>	<b>6,861,398</b>	<b>6,998,626</b>	<b>7,138,597</b>

## ***Human Resources:***

### Board Members:

In order to ensure that hearings continue to be conducted efficiently and cost-effectively, it is critical that the Board continues to attract qualified, experienced individuals to adjudicate at its hearings as mandated in the *Criminal Code*. The *Code* requires that both a psychiatrist and an Alternate Chairperson participate in every hearing. These individuals must have had relevant experience in order to preside effectively. The Board continues to be well served by the retired justices and respected senior lawyers who serve as Alternate Chairpersons, but as their numbers dwindle as a result of illness and retirement, they must be replaced by experienced members. There is currently a shortfall in the number of legal members who have the experience and ability to replace them. As a result, it is imperative that the Board continue to attract senior lawyers and retired judges. It is also essential that the Board maintain an adequate number of forensic psychiatrists, including French-speaking psychiatrists, who must be available as members of the Board to attend hearings throughout the province. Given the volume of the Board's caseload, it must ensure that senior members remain on the Board in order to mentor the new appointments. The Chairperson is also committed to ensuring that the diversity of Ontario is reflected through the Board's membership.

### Staff:

The Staff is committed to working within the legislated time frames in order to meet the Board's mandate. The Board continues to review its operational processes regularly to ensure balance between caseload and staff resources.

Due to the high number of hearings, issuing dispositions and reasons for dispositions in a timely fashion can also be challenging for the Board's administrative staff.

## **Performance Measures and Targets**

As mentioned, the core function of the Ontario Review Board is to conduct hearings and issue Dispositions in accordance with the *Criminal Code*, and within the legislated timeframes. In most cases, an initial hearing must be conducted not later than 45 days after the court verdict is rendered. Once an initial Disposition has been made, the Board must hold a hearing within 12 months of the last hearing as long as the Board retains jurisdiction over the person. Meeting these legislative requirements represents the primary measure of the Board's performance and requires that our membership complement remain optimal.



Board members, all of whom are appointed on a part time basis, are generally flexible in accommodating the fluctuating demands of hearings that must be scheduled in accordance with the legislated deadlines. While the requirement of timely scheduling of hearings is adequately met, the Board's performance may be affected by the administrative requirements of individual hearings. As a result, the larger the Board's pool of members the better. Timely appointments and re-appointments are essential.

### ***Performance Management:***

The Board's practice will continue to be that dispositions are generally issued from two days to two weeks post-hearing. Reasons for dispositions follow. It is a priority of the Board to issue a disposition within ten business days after the hearing.

The Board also continues to pursue initiatives that may assist in reducing hearing costs and facilitating the process, such as:

- Educating Board members on administrative issues;
- Working with the other provincial and territorial Review Boards to make recommendations to the federal government concerning proposed changes to the *Criminal Code of Canada*;
- Working with the province's designated psychiatric hospitals on measures to reduce overall hearing costs and to improve efficiency;
- Improving administrative efficiency through technology and streamlining processes;
- Focussing on the four key target objectives identified below.

### ***Targets:***

Meeting the legislated timelines in the *Criminal Code of Canada* represents a chief target for the ORB as it is required by statute. The annual deadline is set according to the previous hearing for each accused person.

- The Board will convene hearings and issue dispositions within 45 days after an NCR or Unfit court verdict;
- The Board will convene hearings and issue dispositions within 90 days after an NCR or Unfit court verdict if the court makes a disposition;
- The Board will schedule hearings as soon as practicable following notification of a Restriction of Liberty or when convening an early review;

- The Board will schedule annual hearings 12 months after the last disposition date.

In addition, the Board will:

- encourage all members to provide reasons for dispositions within four weeks on routine matters and as soon as practicable for more complex cases. The Board maintains a tracking system to follow up and encourage compliance with these targets;
- pursue the virtual ROL pilot project mentioned above in an effort to facilitate more timely ROL hearings;
- continue to pursue methods for increasing the efficiency of its operations and processes, and for delivering a high quality of service.

The following key target objectives have been identified:

- Reduction in hearing times through more extensive pre-hearing conferencing
- Reduction in the time from hearing to the production of Reasons (within four weeks is the goal)
- Reduction in the number of adjourned hearings, accomplished through:
  - More extensive pre-hearing conferencing, and
  - Scheduling of hearings 9 months in advance (so as to avoid lawyers' 'conflicts')
- Pre-hearing conferences to be conducted for all initial hearings where the accused is not in hospital in order to further reduce the number of adjournments.

## Risk Assessment and Management

RISK	MANAGEMENT OF RISK
<p>The Board is an independent quasi-judicial tribunal and adjudicative decisions are made by a panel. Lack of evidence and/or information on significant risk and clinical assessment may affect the liberty and treatment of the accused and the safety of the public.</p>	<p>A panel consists of an alternate chair, a legal member, two psychiatrist members or one psychiatrist member and one psychologist member, and a public member.</p> <p>The panel has expertise in the fields of criminal law, forensic psychiatry, and mental health.</p> <p>The Board has the authority to order Assessments.</p>
<p>The <i>Criminal Code</i> specifically provides that there must be at least one member of the Board qualified to practice psychiatry, and, in the event there is only one such member, one other who has "training and experience in the field of mental health and is entitled to practice medicine or psychology".</p> <p>If there is a shortage of psychiatric or qualified legal members, hearings would be delayed, resulting in the Board not meeting its mandate.</p>	<p>Chair and management team review a number of psychiatric membership appointments regularly to determine which regions of Ontario require an increase in psychiatric membership.</p> <p>The Chair makes appropriate recommendations to the Public Appointments Secretariat to ensure new psychiatrist members are appointed and where applicable, existing members are reappointed prior to OIC expiration date.</p>
<p>Members of the Board are appointed by the Lieutenant Governor in Council for each province. An order-in-council is issued for each member appointed to the Board.</p> <p>Delay in appointments and re-appointments would result in membership not being adequate to convene hearings across the province within legislated timeframes.</p>	<p>Chair reviews membership listing regularly and makes appropriate recommendations to Public Appointments Secretariat to ensure new members are appointed and where applicable, existing members are reappointed prior to OIC expiration date.</p>

RISK	MANAGEMENT OF RISK
<p>Threshold issue in each hearing is determining whether the accused person poses a significant threat to public safety. This can be a complex and difficult determination.</p> <p>Where significant threat is found, a further decision must be made concerning how the accused person is then supervised. The Board must decide whether the accused should be detained and if so what level of security, and what access, the accused person will have to the community.</p>	<p>Chair and legal counsel facilitate orientation and training of new members. Observation of hearings and training is confirmed immediately after OIC is received. New members are not assigned to hearings until orientation program is completed.</p> <p>The Board is of the view that education sessions on relevant topics and the communication of updates in the areas of law, forensic psychiatry, procedure and technology form an essential part of our mandate. It is imperative that these initiatives receive government support.</p>
<p>The Board is mandated by the <i>Criminal Code of Canada</i> to schedule hearings within 45 or 90 days of the court verdict and every 12 months or more thereafter.</p> <p>Increased caseload and case management complexities will impact on the Board's ability to meet prescribed timelines as outlined in the <i>Criminal Code</i>.</p> <p>Failure of the Board to meet its mandate within the timeframes prescribed could result in serious consequences, such as increased appellate oversight, and a potential for loss of confidence in the processes of the Board, unwarranted intrusion into the liberty of those who are entitled to increased liberty or increased risk to the public due to delays.</p>	<p>Daily initial hearing and weekly caseload scheduling reports are automatically generated from the case management system and reviewed by management with staff.</p> <p>Disposition and Reasons for Disposition status reports are used by the staff board order administrators to verify with the Alternate Chairs the number of outstanding dispositions that need to be issued within the 45 and 90 days and reasons that need to be issued within the Board's standard of four weeks. These reports are a tool to manage both workload priorities and address backlog issues due to increased workload or staff absence with the assigned backup staff administrators.</p>
<p>The steady pattern of caseload increase of the Ontario Review Board may place a pressure on its allotted funding.</p>	<p>Keep Ministry informed of expenditures with timely financial reporting to prepare for and manage shortage of funds if necessary.</p>

<p>Board members and parties unable to attend hospitals to conduct in-person hearings as a result of COVID outbreaks.</p>	<p>Where necessary, the Board will continue to use the same audio-visual platform used during the pandemic to convene hearings.</p>
<p>A ruling by the Court of Appeal that the Board is not able to proceed electronically without the accused's consent. This challenge will be solved on an <i>ad hoc</i> basis.</p>	<p>The Chair has spearheaded an effort to ask the federal government to solve this problem legislatively. In the meantime, the Chair reviews / recommends the best course of action to the Ministry in order to preserve the Board's mandate which has as its paramount consideration the protection of the public.</p>

**Communications Plan**

***Target Audiences:***

- Board Members
- Parties including accused persons, hospitals and clinical staff
- Other Review Boards in Canada
- Ministry of Health
- Federal government
- Federal Ministry of Justice
- Attorney General
- Police agencies
- Judiciary
- Public
- Victims

Board Members:

- Annual Education Session – Continue to advise and educate members on new issues and ongoing concerns of which they need to be aware
- On-going communication regarding new policies and important legal, clinical, procedural and technological developments affecting the Board's mandate
- Web site: a Members-only Area to supplement on-going education and training and promote exchanges of ideas and information

### Parties:

- Advocacy outreach to all parties *via* written communications, speaking opportunities, participation in panels and seminars
- Dispositions and Reasons for Dispositions provided to legal research platforms including QuickLaw, WestLaw and CanLii, allowing the legal community access to Ontario Review Board decisions
- The Board is in regular communication with the Directors of the Forensic Facilities in order to ensure a coordinated approach to in-person hearings at the hospitals

### Provincial Review Boards:

- Meet annually with other Review Boards in Canada
- On-going communication throughout the year between Chairs, lawyers, administration

### Ministry of Health:

- Liaise with Corporate Management Branch to ensure timely and effective delivery of service and accountability
- Provide updates on communications activities that may directly impact the Ministry

### Federal Ministry of Justice:

- The Chair has spearheaded an effort on behalf of Review Boards Canada to ask the federal government to enact amendments to the *Criminal Code of Canada* to afford Review Boards greater flexibility in responding to urgent circumstances such as a pandemic

### Attorney General:

- Advising and listening to representatives of the Attorney General's office with respect to policy, appeals, best practices advocacy and procedural imperatives of part XX.I of the *Code*
- Discussion and communication is frequent and on-going

### Public:

- Updating of web site regularly to keep public informed
- Web site information formatted to support access for people with disabilities
- Legal research platforms including QuickLaw, WestLaw and CanLii post the Board's dispositions and reasons

### Police Services:

- Informing regional police services of Disposition information by forwarding the OPP copies of all dispositions for data entry Canada-wide on CPIC
- Communicating with police regarding accused, explanation of community access, sex offender registry

The Board will continue to build relationships with stakeholders and interested parties in the forensic system, other Review Boards in Canada, parties and major partners including members of the judiciary, in working to solve mutual problems and to identify strategies to help deal with them.