

ONTARIO POLICE ARBITRATION COMMISSION



ANNUAL REPORT

FISCAL YEAR 2015-16

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ONTARIO POLICE ARBITRATION COMMISSION
ANNUAL REPORT
FISCAL YEAR 2015-16

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ONTARIO POLICE ARBITRATION COMMISSION

ANNUAL REPORT

FISCAL YEAR 2015-16

EXECUTIVE SUMMARY

During the 2015-16 fiscal year, the Ontario Police Arbitration Commission (the Commission) recruited and trained one new full time staff member, filled two board vacancies, contributed to the legislated mandate review and developed a new website. Operationally, programs and activities were consistent with the 8-year averages, which can be found in Appendix 2.

In 2015-16, the Commission handled a total of 129 conciliation files and 37 arbitration files. Of the 87 conciliation cases heard, 26 were settled during the hearing, and 17 out of 37 arbitration cases reached mediated settlements, resulting in fewer scheduled hearing dates and decreased spending on travel and services. Activity summaries for conciliation and arbitrations in fiscal year 2015-16 can be found in Appendix 1.

Many of the strategies outlined in the business plan for 2015-16 were successfully implemented:

- Launched the Commission's new website and improved stakeholder accessibility to the application process and to research materials
- Maintained timely delivery of service by qualified professional conciliators and mediator-arbitrators
- Reduced response times to applications with 1.13 days for conciliation and 1 day for arbitration requests
- Implemented environmentally-friendly alternatives by adjusting mailing practices and switching to online versions of labour law periodicals

Performance Measures can be found on Page 7.

The Commission's budget for fiscal year 2015-16 was \$453,800. The Commission operated under-budget with a total expenditure of \$429,901. The financial report is located on page 5.

LEGISLATIVE AUTHORITY

The legislative authority of the Commission is set out under section 131(1) of the *Police Services Act*, R.S.O. 1990, c.P. 15 as amended. The statutory responsibilities of the Commission are set out specifically in subsection 131(5):

131 (5) The Arbitration Commission has the following responsibilities:

1. Maintaining a register of arbitrators who are available for appointment under section 124.

2. Assisting arbitrators by making administrative arrangements in connection with arbitrations.
3. Fixing the fees of arbitrators appointed by the Solicitor General under section 124.
4. Sponsoring the publication and distribution of information about agreements, arbitrations and awards.
5. Sponsoring research on the subject of agreements, arbitrations and awards.
6. Maintaining a file of agreements, decisions and awards made under this Part.

MANDATE

The Ontario Police Arbitration Commission is an independent adjudicative agency whose mission is to provide for the neutral administration of the Labour Relations, Part VIII, of the *Police Services Act (PSA)* in an effective and timely manner.

Responsibilities of the Ontario Police Arbitration Commission as outlined in the Memorandum of Understanding between the Commission and the Ministry of Community Safety and Correctional Services (MCSCS):

- promote harmonious labour relations in the police community;
- administer the mediation-arbitration process for police contract bargaining disputes and rights grievances;
- provide conciliation services prior to arbitration;
- assist parties negotiating a voluntary collective agreement;
- sponsor research with respect to police arbitration processes and awards.

ROLE OF THE COMMISSION

The Commission was established in 1972 to facilitate a fast and efficient process to assist police associations and police services boards in Ontario in resolving outstanding labour and contract bargaining disputes. There are two types of disputes:

- a “rights” dispute involves the interpretation, application, administration or alleged violation of an existing agreement or award
- an “interest” dispute involves settling the terms of a new collective agreement.

In accordance with the Labour Relations Part VIII of the *Police Services Act*, the Commission appoints conciliators and mediator-arbitrators to resolve rights and interest disputes between police associations and police services boards across the province.

The Commission does not in any way influence the parties in their actual negotiations. These processes are intended to promote harmonious labour relations in the police community and improve the long term effectiveness of policing in Ontario.

The Commission actively works towards fulfilling its mandate and legislative requirements in an efficient manner while ensuring operations are effective and responsible.

COMPOSITION OF THE COMMISSION

Section 131(2) of the *Police Services Act* sets out the composition of the Commission. It consists of a Chair and two representatives of boards, recommended for appointment by the Ontario Association of Police Services Boards (OAPSB) and two representatives of associations, recommended for appointment by the Police Association of Ontario (PAO). The Minister must consult with or attempt to consult with the bargaining agents or employers' organizations prior to a Chair being appointed to the Commission.

2015-16 Appointments

There were some changes to the Commission's board member appointments in fiscal year 2015-16. Representation for the OAPSB saw James MacEwen's appointment expire in August, 2015. Patrick Weaver was named as the replacement. Mr. Weaver's appointment was confirmed on January 15, 2016 for a three-year period.

The PAO named Bruce Chapman to fill an existing vacancy created by the resignation of a past member in March 2014. Mr. Chapman's appointment was confirmed on March 2, 2016 for a three-year period. A vacancy was created when a board member ceased to meet the statutory requirement for appointment to the board of the Commission upon his retirement from his municipal police service. The PAO named Mark Baxter to fill this vacancy. Mr. Baxter's appointment is being processed.

The Chair of the Commission, Mr. Paul Gardner, was reappointed for one year to March 8, 2017. A further four month appointment was made to July 8, 2017, in order to facilitate the transition of a new Chair. The Commission is working with the ministry on recruitment and succession plans for the Commission's next Chair.

Ontario Police Arbitration Commission Chair

Paul Gardner: March 9, 2016 to July 8, 2017

Ontario Association of Police Services Boards Representatives

James MacEwen: August 7, 2013 to August 6, 2015

Wayne Bahlleda: June 20, 2012 to June 19, 2017

Patrick Weaver: January 15, 2016 to January 14, 2019

Police Association of Ontario Representatives

Dave McFadden: April 10, 2013 to August, 2014

Bruce Chapman: March 2, 2016 to March 1, 2019

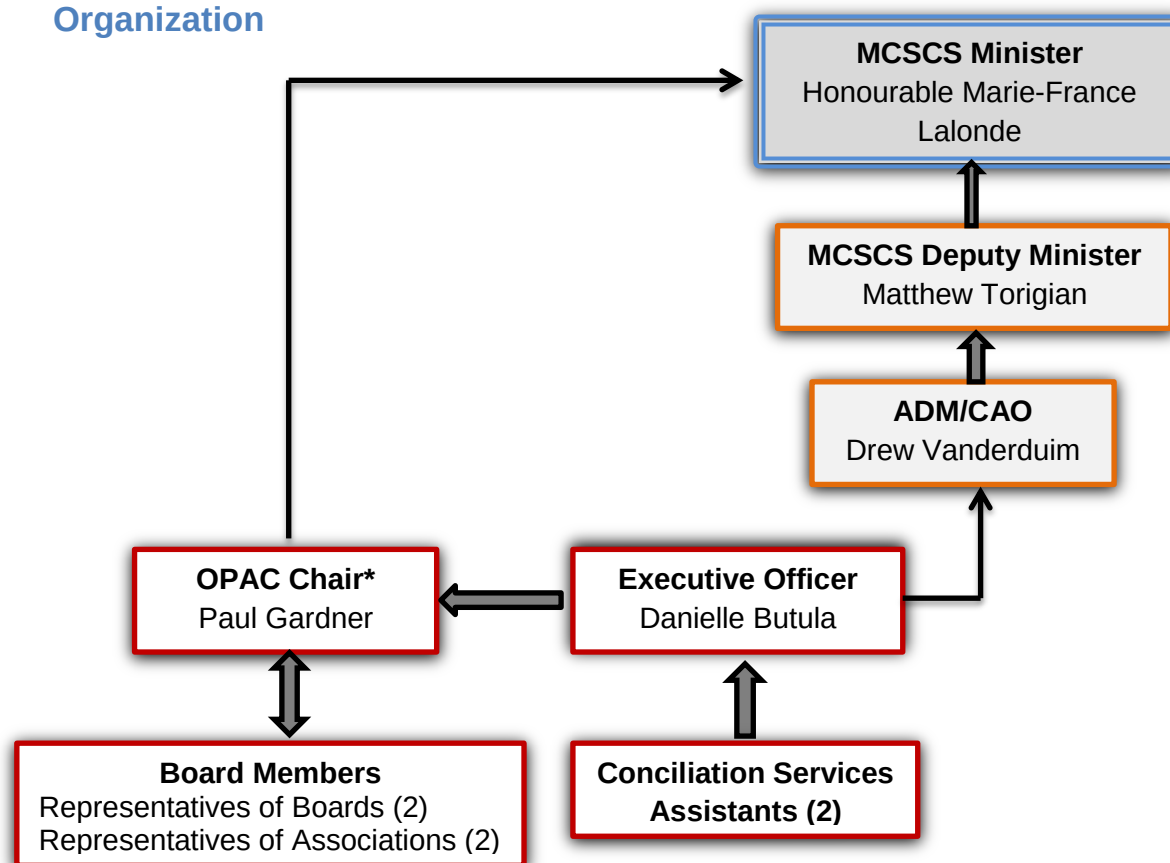
Mark Baxter: Appointment in process

Staff

The Commission's staff is comprised of an Executive Officer and two full-time Conciliation Services Assistants. Employees of the Commission are appointed under Part III of the *Public Service of Ontario Act, 2006*.

A job competition was held for the Executive Officer position in November 2015.. The successful competition candidate was named in January 2016.

Organization



LEGEND



Regular direct-reporting relationship



Reporting relationship for less frequent or specific tasks/areas of operation

* Per legislation, this position is subject to Minister's direction.

FINANCIAL REPORT

BUDGET: \$453,800

	Budget	Actuals	+/-
Fiscal Year 2015-16	\$453,800	\$429,901	-\$23,899
Salaries & Wages	\$182,000	\$172,707	-\$9,293
Benefits	\$23,500	\$36,898	\$13,398
Transportation & Communication	\$36,000	\$41,318	\$5,318
Services	\$206,600	\$168,909	-\$37,691
Supplies & Equipment	\$5,700	\$10,068	\$4,368

The budget for 2015-16 was \$453,800. In 2015-16, the Commission operated within its budget with a surplus of \$23,899 and a total expenditure of \$429,901.

Three financial risks were reported in the first quarter of 2015-16, and mitigated:

- Mandate Review: Mandate Reviews are a Government priority required under the Agencies and Appointments Directive, but a third party consultant to perform the review was not in the Commission's budget. Treasury Board Secretariat (TBS) determined that third party consultant led mandate reviews would be paid for by TBS, leaving the Commission without the responsibility to provide payment for this service.
- Website: A new website was required when the existing website platform (Stellent) was decommissioned. The Commission worked with Justice Technology Services to migrate to a new web platform and update the functionality of the site to be compliant with the Accessibility for Ontarians with Disabilities Act (AODA). A detailed search function on the website required the procurement of a web developer at a cost of \$20,685. Throughout the fiscal year, the Commission realized operational efficiencies resulting in enough savings to pay for the website development.
- Legislative Requirements: The number of police associations and boards seeking assistance through conciliation and arbitration varies from year to year depending upon the economic environment or particular issues being negotiated/grieved within the police labour community. The start of fiscal year 2015-16 saw a high volume of applications, however requests for service stabilized as months passed and the forecasted increase in total activity did not occur.

OVERVIEW OF PROGRAMS AND ACTIVITIES

Conciliation Services

When parties are not able to resolve their differences through negotiation, either party representing a police association or police services board may request the appointment of a conciliator by applying to the Commission under sections 121 (interest disputes) or 123 (rights disputes) of the *Police Services Act*. Conciliation officers are neutral and assist the parties in resolving or reducing the number of outstanding issues. If issues are not resolved, they may eventually be referred to arbitration. The purpose of conciliation is to assist the parties in reaching a mutually agreeable resolution to a dispute without proceeding to arbitration.

The Commission uses the services of five highly experienced, private-sector conciliators who are paid a per diem per case. They have widely open availability so are able to draw on a greater number of meeting dates within any given timeframe and hold multiple hearings on the same day in various locations throughout the province.

2015-16 Conciliation Highlights

- 103 new applications for conciliator appointments
- 129 conciliation files were handled in total, including carryovers
- 87 appointments made
- 87 conciliations held over 64 meeting days

Detailed activity report available in Appendix 1.

Mediation-Arbitration Services

When the parties are unable to resolve their differences through conciliation and cannot agree on the joint appointment of an arbitrator, either party representing a police association or police services board may request the appointment of an arbitrator by applying to the Commission. The outcome of a dispute is determined by the arbitrator based on evidence presented at a hearing. In October 1997, the *Police Services Act* was amended to allow for an assisted dispute resolution (ADR) mechanism to deal with all police contract bargaining disputes. As a result, the emphasis on mediation prior to arbitration has increased the number of settlements between police associations and police services boards in both interest and rights disputes.

2015-16 Arbitration Highlights

- 15 new applications for arbitrator appointments
- 37 arbitration files were handled in total, including carryovers
- 11 appointments made
- 12 cases heard over 18 meeting days

Detailed activity report available in Appendix 1.

Performance Measures – Fiscal Year 2015-16

1. Core Business Function: Conciliation

The following statistics are used to ensure efficient and timely responses to applications for conciliation services. The expectation is that every application is acknowledged within the same business day, with the exception of complex applications that require further interpretation or direction from the Chair. The results below indicate that the Commission achieved an average response time of 1.24 days over 8 years, and shortened the average response time in fiscal year 2015-16 to 1.13 days.

Strategic Objective	Measures							Result	
Ensure timely delivery of conciliation services by qualified professionals	Maintaining the response time from receipt of application to first contact below the ministry common service standard of 5 days							1.13 days	
								8-year Average	
								1.24 days	
Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	Average
Average number of days	1.30	1.30	1.02	1.10	1.38	1.28	1.39	1.13	1.24

2. Core Business Function: Mediation-Arbitration

The statistics below are used to ensure efficient and timely response to applications for arbitration services. The expectation is that every application is acknowledged within the same business day, with the exception of complex applications that require further interpretation or direction from the Chair. While the Commission achieved an average response time of 1.76 days over 8 years, fiscal year 2015-16 results show a response time of 1 day.

Strategic Objective	Measures							Result	
Ensure timely delivery of mediation-arbitration services by qualified professionals	Maintaining the response time from receipt of application to first contact below the ministry common service standard of 5 days							1.00 day	
								8-year Average	
								1.76 days	
Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	Average
Average number of days	3.71	1.55	1.80	1.45	1.50	1.76	1.31	1.00	1.76

3. Core Business Function: Maintain and Distribute Information & Research Materials

The statistics below display the expediency at which the Commission publicly posts arbitration awards and decisions on the website for public use. The 8 year average of 2.68 days was improved this fiscal year, with an average posting time of 1.67 days from receipt.

Strategic Objective	Measures						Result		
Improve stakeholder accessibility to the application process and research materials	New awards (OPAC and non-OPAC) to be published on website within 3 days of receipt of summary						1.67 days		
							8-Year Average		
							2.68 days		
Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	Average
Average number of days	2.30	8.70	2.05	2.44	1.08	1.69	1.53	1.67	2.68

Workplace Relationship Improvement Program

The Workplace Relationship Improvement Program (WRIP) was introduced in 2006. WRIP is offered to parties who are experiencing difficulties in their ongoing labour/management relationship. The program is voluntary and requires commitment by senior members of the police association and the police services board in order to be successful. WRIP provides a structure under which the parties can identify and jointly agree to the problems that are affecting the relationship. It is not designed to revise the terms of the collective agreement, existing board policies or resolve ongoing grievances.

The Commission will provide a team of facilitators who are trained and well-experienced in workplace relationship improvement processes. They will work with the parties to develop an approach that is appropriate to the organization. This program is gradually gaining acceptance within the police community.

In fiscal year 2015-16, no formal program participation took place.

Distribution of Labour Relations Information and Research Materials

The Commission is committed to providing information about its services to stakeholders and the public in a transparent and accessible manner. The Commission's website (www.policearbitration.on.ca) provides historic information on arbitration decisions and communicates policies, procedures, and accountability documents to stakeholders, legal counsel and labour relations personnel in the broader public sector and the general public.

The Commission's new website, which is updated regularly, was launched in December 2015 and has allowed for the modernization of the Commission's online presence. One

of goals of the new website was to improve accessibility and remove barriers for users in compliance with the Accessibility for Ontarians with Disabilities Act (AODA), including Web Content Accessibility Guidelines (WCAG) 2.0.

New arbitration awards are also distributed to a list of stakeholders via email.

APPENDIX 1

Activity Summary – Fiscal Year 2015-16

Conciliation Activity Summary

Requests for Appointment	Files Processed	Rights Disputes	Interest Disputes	Duty of Fair Representation	Section 40
Carryover of files from 2012-13	1	1	0	0	0
Carryover of files from 2013-14	2	2	0	0	0
Carryover of files from 2014-15	23	21	2	0	0
New Conciliation requests 2015-16	103	85	15	3	0
Total files handled:	129	109	17	3	0
Conciliation files heard 2015-16	87	73	12	2	0
Number of hearing days	64	55	7	2	0
Average hearing days required/ file	0.74				

Conciliation File Outcomes in 2015-16	
OPAC Lacks Jurisdiction	0
Withdrawn	12
Settled Prior to Conciliation	11
Resolved	26
Unresolved	48
On Hold	14
In Process	18

Arbitration Activity Summary

Requests for Appointment	Files Processed	Rights Disputes	Interest Disputes	Duty of Fair Representation	Section 40
Carryover of files from 2010-11	1	0	0	0	1
Carryover of files from 2012-13	1	1	0	0	0
Carryover of files from 2013-14	11	6	0	2	3
Carryover of files from 2014-15	9	8	0	1	0
New Arbitration requests 2015-16	15	11	4	0	0
Total files handled:	37	26	4	3	4
Arbitration files heard 2015-16	12	9	2	1	0
Number of hearing days	18	12	3	3	0
Average hearing days required/ file	1.5				

Arbitration Hearing Outcomes 2015-16	
OPAC lacks jurisdiction	0
Withdrawn (includes MOUs)	2
Agreed To Own Arbitrator	3
Settled Prior To Arbitration	2
Mediated Settlement	15
Awards Delivered	3
Adjourned Sine Die	2
On Hold	1
In Process	9

APPENDIX 2

8-Year Activity Summary

Conciliation Files

Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	Average
New Concil. Applications	119	104	100	111	73	102	106	103	102.3
Rights	94	80	84	89	61	84	94	85	83.9
Interest	19	16	11	19	7	11	7	15	13.1
DFR	5	8	4	3	2	4	5	3	4.3
Section 40	1	0	1	0	3	3	0	0	1.0
Total Concil. Applications	159	137	118	131	104	121	120	129	127.4
Rights	129	106	101	107	91	104	106	109	106.6
Interest	21	21	13	19	12	13	8	17	15.5
DFR	8	10	4	5	1	4	6	3	5.1
Section 40	1	0	1	2	5	5	5	0	2.4
Cases heard	98	113	82	94	63	92	90	87	89.9
# of Hearing Days	57	69	56	57	51	70	71	64	61.9
Avg days per case	0.58	0.61	0.68	0.61	0.81	0.76	0.79	0.74	0.70

Arbitration Files

Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	Average
New Arb. Applications	27	42	31	34	22	31	21	15	27.9
Rights	24	30	28	26	11	21	17	11	21.0
Interest	1	2	1	8	8	3	3	4	3.8
DFR	1	10	1	0	0	4	1	0	2.1
Section 40	1	0	1	0	3	3	0	0	1.0
Total Arb. Applications	44	55	49	56	44	47	44	37	47.0
Rights	38	41	39	45	29	29	29	26	34.5
Interest	4	3	3	8	9	9	5	4	5.6
DFR	1	11	6	1	1	4	5	3	4.0
Section 40	1	0	1	2	5	5	5	4	2.9
Cases heard	21	33	28	16	25	22	19	12	22.0
# of Hearing Days	51	40	60	27	36	35	36	18	37.9
Avg days per case	2.43	1.21	2.14	1.69	1.44	1.59	1.89	1.50	1.74

Total Files – Conciliation and Arbitration

Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	Average
All New Applications	146	146	131	145	95	133	127	118	130.1
Total Applications	203	192	167	187	148	168	164	166	174.4
Total Cases Heard	119	146	110	110	88	114	109	99	111.9
Total Hearing Days	108	109	116	84	87	105	107	82	99.8

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