

ONTARIO POLICE ARBITRATION COMMISSION



ANNUAL REPORT

FISCAL YEAR 2016-17

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FISCAL YEAR 2016-17

EXECUTIVE SUMMARY

During the 2016-17 fiscal year, the Ontario Police Arbitration Commission (OPAC) focused on mitigating risks by beginning recruitment and succession planning for a new Chair, developing and implementing a complaints process, and preparing responses for mandate review recommendations received from the Minister. OPAC continued making improvements to the website and implemented weekly file tracking reports internally to ensure that efficient service delivery to stakeholders was maintained.

Operationally, OPAC handled a total of 115 conciliation files and 39 arbitration files. Activity summaries for conciliation and arbitrations in 2016-17 can be found in Appendix 1. Conciliator appointments were lower than estimated, which resulted in cost savings for the year. Arbitrator appointments were on par with the nine-year averages, which can be found in Appendix 2.

Many of the strategies outlined in the business plan for 2016-17 were successfully implemented:

- Maintained timely delivery of service by qualified professional conciliators and mediator-arbitrators
- Reduced response times to applications within 1.06 days for conciliation and one day for arbitration requests
- Implemented environmentally-friendly alternatives through adjusting mailing and printing practices and switching to online versions of labour law periodicals
- Improved stakeholder accessibility to the application process and research materials through website updates.

Performance Measures can be found on Page 7.

OPAC's budget for 2016-17 was \$458,700. OPAC operated under-budget with a total expenditure of \$397,389. The financial report is located on page 5.

LEGISLATIVE AUTHORITY

The legislative authority of OPAC 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 OPAC 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 OPAC 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 OPAC

OPAC 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*, OPAC appoints conciliators and mediator-arbitrators to resolve rights and interest disputes between police associations and police services boards across the province. OPAC

does not influence the mediator-arbitrators or conciliators who are appointed to facilitate dispute resolution.

OPAC 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.

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

COMPOSITION OF OPAC

Section 131(2) of the *Police Services Act* sets out the composition of OPAC. 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 OPAC.

2016-17 Appointments

The PAO named Mark Baxter to fill a vacancy on OPAC's board which was created in 2015. Mr. Baxter's appointment was finalized on April 5, 2017, just after the end of 2016-17.

Management has been working with the Ministry on recruitment and succession plans for OPAC's next Chair. The current Chair of OPAC, Mr. Paul Gardner, received a four month reappointment to July 8, 2017, in order to facilitate the transition of a new Chair.

Ontario Police Arbitration Commission Chair

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

Ontario Association of Police Services Boards Representatives

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

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

Police Association of Ontario Representatives

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

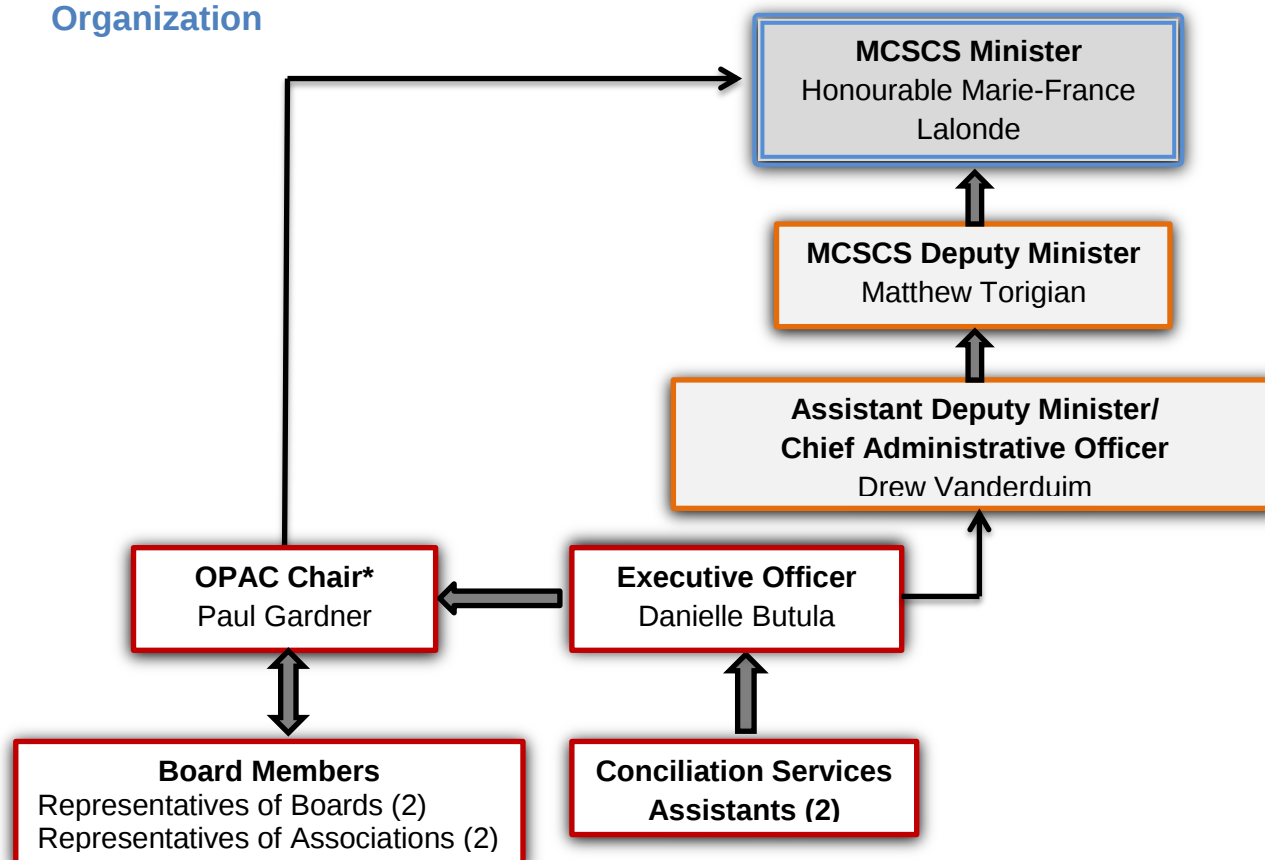
Mark Baxter: April 5, 2017 to April 4, 2019

Staff

OPAC's staff is comprised of an Executive Officer and two full-time Conciliation Services Assistants. Employees of OPAC are appointed under Part III of the *Public*

Service of Ontario Act, 2006.

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: \$458,700

2016-17	Budget	Actuals	+/-
Salaries & Wages	\$182,000	\$168,576	-\$13,424
Benefits	\$23,500	\$24,059	\$559
Transportation & Communication	\$51,200	\$29,438	-\$21,762
Conciliation Services	\$74,000	\$65,737	-\$8,263
Arbitration Services	\$53,000	\$42,337	-\$10,663
Other Services	\$71,400	\$56,453	-\$14,947
Supplies & Equipment	\$3,600	\$10,790	\$7,190
TOTAL:	\$458,700	\$397,390	-\$61,310

The budget for 2016-17 was \$458,700. In 2016-17, OPAC operated within its budget with a surplus of \$61,310 and a total expenditure of \$397,390.

Explanation of Variances

Transportation & Communication: \$21,762 under budget.

There was an uncharacteristically low number of new conciliation applications which resulted in decreased spending on services and transportation. A higher number of applications would have resulted in more hearings, and each hearing requires travel, accommodation and meeting spaces. These costs would be incurred by OPAC. For arbitrations, less travel was required than in previous years due to the location of the hearings.

Conciliation Services: \$8,263 under budget.

As noted, conciliation applications were approximated 15% lower than the nine-year average. The decreased request for conciliation services resulted in decreased spending.

Arbitration Services: \$10,663 under budget.

Sixteen arbitration cases will be carried over into the next fiscal year, meaning costs for services, transportation to hearings and award writing will be incurred in the next fiscal year.

Additionally, \$6,803 of the supplies and equipment spending should have been paid out of the other services account. This amount was the cost of conference tickets for OPAC staff and Board members. These costs were paid by credit card and categorized in a different spending account, resulting in a pressure on the supplies & equipment budget.

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 OPAC under sections 121 (interest disputes) or 123 (rights disputes) of the *Police Services Act*. Neutral conciliation officers assist parties in resolving or reducing the number of outstanding issues. Unresolved issues may be referred to arbitration. The purpose of conciliation is to assist parties in reaching a mutually agreeable resolution to a dispute without proceeding to arbitration.

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

2016-17 Conciliation Highlights

- 84 new applications for conciliator appointments
- 115 conciliation files were handled in total, including carryovers
- 70 appointments made
- 76 conciliations held over 48 meeting days

Conciliation applications in 2016-17 were lower than estimated. With only 84 applications and 70 appointments made, this fiscal year had 15% lower activity than the nine-year average. This resulted in great savings for OPAC in service costs, travel, meeting space and accommodations expenses.

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 OPAC. 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.

2016-17 Arbitration Highlights

- 29 new applications for arbitrator appointments
- 39 arbitration files were handled in total, including carryovers
- 25 appointments made
- 20 cases heard over 18 meeting days

Arbitration activity in 2016-17 increased nearly 50% from last year, which was an uncharacteristically slow year for arbitration applications. Activity is now back within range of the nine-year average. A couple of complex cases will be brought forward into the next fiscal year.

Detailed activity report available in Appendix 1.

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.

OPAC 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.

In fiscal year 2016-17, no formal program participation took place.

Distribution of Labour Relations Information and Research Materials

OPAC is committed to providing information about its services to stakeholders and the public in a transparent and accessible manner. OPAC'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.

OPAC's redesigned website was launched in December 2015 and has allowed for the modernization of OPAC's online presence. One of the website goals 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.

Performance Measures – Fiscal Year 2016-17

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 OPAC achieved an average response time of 1.22 days over nine years, and shortened the average response time in 2016-17 to 1.06 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 five days							1.06 days			
								9-year Average			
								1.23 days			
Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	Average	
Average number of days	1.30	1.30	1.02	1.10	1.38	1.28	1.39	1.13	1.06	1.23	

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 OPAC achieved an average response time of 1.67 days over nine years, 2016-17 results show a response time of one 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 five days							1.00 day			
								9-year Average			
								1.67 days			
Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	Average	
Average number of days	3.71	1.55	1.80	1.45	1.50	1.76	1.31	1.00	1.00	1.67	

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

The statistics below display the expediency at which OPAC publicly posts arbitration awards and decisions on the website for public use. Last fiscal year's result was 1.67 days which was improved in 2016-17 to one day from receipt of the award.

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 three days of receipt of summary						1.00 day			
							9-Year Average			
							2.50 days			
Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	Average
Average number of days	2.30	8.70	2.05	2.44	1.08	1.69	1.53	1.67	1.00	2.50

APPENDIX 1

Activity Summary – Fiscal Year 2016-17

Conciliation Activity Summary

Requests for Appointment	Files Processed	Rights Disputes	Interest Disputes	Duty of Fair Representation	Section 40
Carryover of files from 2013-14	1	1	0	0	0
Carryover of files from 2014-15	3	3	0	0	0
Carryover of files from 2015-16	27	21	6	0	0
New Conciliation requests 2016-17	84	72	7	5	0
Total files handled:	115	97	13	5	0
Conciliation files heard 2016-17	76	64	8	4	0
Number of hearing days	48	41	5	2	0
Average hearing days required/ file	0.63				

Conciliation File Outcomes in 2016-17	
OPAC Lacks Jurisdiction	0
Withdrawn	4
Settled Prior to Conciliation	3
Resolved	21
Unresolved	52
On Hold	9
In Process	26
Total files handled:	115

Arbitration Activity Summary

Requests for Appointment	Files Processed	Rights Disputes	Interest Disputes	Duty of Fair Representation	Section 40
Carryover of files from 2013-14	1	0	0	1	0
Carryover of files from 2014-15	1	0	0	1	0
Carryover of files from 2015-16	8	6	2	0	0
New Arbitration requests 2016-17	29	24	1	4	0
Total files handled:	39	30	3	6	0
Arbitration files heard 2016-17	20	17	1	2	0
Number of hearing days	18	15	1	2	0
Average hearing days required/ file	0.90				

Arbitration Hearing Outcomes 2016-17	
OPAC lacks jurisdiction	0
Withdrawn (includes MOUs)	4
Agreed To Own Arbitrator	0
Settled Prior To Arbitration	4
Mediated Settlement	3
Final Awards Delivered	8
Adjourned Sine Die	1
On Hold	3
In Process	16
Total files handled:	39

APPENDIX 2

9-Year Activity Summary

Conciliation Files

Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	Average
New Concil. Applications	119	104	100	111	73	102	106	103	84	100.2
Rights	94	80	84	89	61	84	94	85	72	82.6
Interest	19	16	11	19	7	11	7	15	7	12.4
DFR	5	8	4	3	2	4	5	3	5	4.3
Section 40	1	0	1	0	3	3	0	0	0	0.9
Total Concil. Applications	159	137	119	133	109	126	125	129	115	128.0
Rights	129	106	101	107	91	104	106	109	97	105.6
Interest	21	21	13	19	12	13	8	17	13	15.2
DFR	8	10	4	5	1	4	6	3	5	5.1
Section 40	1	0	1	2	5	5	5	0	0	2.1
Cases heard	98	113	82	94	63	92	90	87	76	88.3
# of Hearing Days	57	69	56	57	51	70	71	64	48	60.3
Avg days per case	0.58	0.61	0.68	0.61	0.81	0.76	0.79	0.74	0.63	0.7

Arbitration Files

Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	Average
New Arb. Applications	27	42	31	34	22	31	21	15	29	28.0
Rights	24	30	28	26	11	21	17	11	24	21.3
Interest	1	2	1	8	8	3	3	4	1	3.4
DFR	1	10	1	0	0	4	1	0	4	2.3
Section 40	1	0	1	0	3	3	0	0	0	0.9
Total Arb. Applications	44	55	49	56	44	47	44	37	39	46.1
Rights	38	41	39	45	29	29	29	26	30	34.0
Interest	4	3	3	8	9	9	5	4	3	5.3
DFR	1	11	6	1	1	4	5	3	6	4.2
Section 40	1	0	1	2	5	5	5	4	0	2.6
Cases heard	21	33	28	16	25	22	19	12	20	21.8
# of Hearing Days	51	40	60	27	36	35	36	18	18	35.7
Avg days per case	2.43	1.21	2.14	1.69	1.44	1.59	1.89	1.50	0.90	1.6

Total Files – Conciliation and Arbitration

Fiscal Year	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	Average
All New Applications	146	146	131	145	95	133	127	118	113	128.2
Total Applications	203	192	167	187	148	168	164	166	154	172.1
Total Cases Heard	119	146	110	110	88	114	109	99	96	110.1
Total Hearing Days	108	109	116	84	87	105	107	82	66	96.0

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