Ontario Police Arbitration Commission

Annual Report

Fiscal Year 2018-19

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Ontario Police Arbitration Commission

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Ontario Police Arbitration Commission

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Message from the Chair

During the fiscal year 2018-19, the Ontario Police Arbitration Commission (OPAC) fulfilled all legislated obligations under Part VIII of the Police Services Act, providing effective conciliation and arbitration services to the Ontario policing community. OPAC satisfied all reporting requirements for the creation and approval of the Commission's business plan, projected budget, risk assessment, annual report, financial reports, public posting, compliance of attestation, and performance measures. All mandatory service delivery timelines were met or exceeded.

Since becoming Chair of the Commission, I have reached out to the Ontario Association of Police Services Boards (OAPSB), the Police Association of Ontario (PAO), and the Ontario Association of Chiefs of Police (OACP). The intention was to maintain, and foster, a professional working relationship with the organizations and to convey OPAC's genuine willingness to assist police services and police associations in finding ways to mitigate undue labour relations strife where it may arise. OPAC met jointly with the OAPSB, PAO and OACP to discuss OPAC's proposed strategic direction. All the participants responded favourably to the idea of mitigating undue labour relations issues subject to working out the logistics and execution of the strategy.

OPAC made significant improvements to the storage of statistical data, how it is categorized and analyzed. Historic conciliation and arbitration information about rights and interest disputes has been integrated into a searchable database. OPAC now has the capacity to provide detailed labour relations information for every police service in Ontario. We have the ability to accurately identify the type, frequency and location of conciliation, and arbitration applications made to OPAC.

On March 26, 2019 the Comprehensive Ontario Police Services Act, 2019 (COPS Act, 2019) was passed. OPAC's name will change to the Ontario Police Arbitration and Adjudication Commission (OPAAC), and its mandate will expand to include new legislative responsibilities, including municipal budget disputes, workplace reprisals, First Nations policing and discipline matters. I, and OPAC's Executive Officer, met with the Policing Standards Division and legal counsel to discuss regulations and timelines. While the language of the COPS Act, 2019 is well known, the details of the ancillary regulations are not. OPAC will continue to monitor the development of the regulations, and very much look forward to assuming the expanded legislated mandate.

Sig M. Walter

Chair

Executive Summary

During the 2018-19 fiscal year, the Ontario Police Arbitration Commission (OPAC) met, or exceeded, all mandated requirements set out under Part VIII of the Police Services Act. OPAC's Arbitrator Register was enhanced with the addition of four new arbitrators.

The Chair continued consultation regarding mitigation of labour relations disputes in policing with the OAPSB, PAO, and liaison with the OACP. Additionally, the Chair met with select police services to discuss ways of mitigating undue labour relations strife and relationship breakdowns. Participants in the discussions included police services board Chairs, Chiefs of police and Presidents of police associations.

Three Commission Members were reappointed and confirmed, making for a full complement of OPAC Members. Additionally, OPAC's Executive Officer continued on a renewed secondment, necessitating his extended appointment as acting Executive Officer.

OPAC processed 104 conciliation files and 51 arbitration files. Activity summaries for conciliations and arbitrations occurring in 2018-19 are found in Appendix 1. The total number of conciliation and arbitration files, including carryover from earlier years, reached 155 compared to the 10-year average of approximately 172 files. The 10-year activity summary is located in Appendix 2.

The following strategic objectives, outlined in the 2018-19 Business Plan were successfully executed:

- Maintenance of timely service delivery by conciliators and mediator/arbitrators.
- Added four arbitrators to the register to ensure availability of high-quality conciliation and arbitration services at all times.
- Exploration of ways to mitigate undue labour relations difficulties with input from the OAPSB, PAO and liaison with the OACP.
- Staff completed training, and development to improve database capability for the collection of data, accurate statistical input, organization, and analysis.

OPAC's budget for fiscal year 2018-19 was $458,700. OPAC operated under-budget with a total expenditure of $370,978. The Financial Report is located on page 6.

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

OPAC 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 in an effective and timely manner.

Responsibilities of OPAC as outlined in the Memorandum of Understanding between OPAC and the Ministry of the Solicitor General are to:

- 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 an effective, efficient process to assist police associations and police services boards in Ontario in resolving labour and contract bargaining disputes. There are two types of disputes:

- "Rights" disputes involve the interpretation, application, administration or alleged violation of an existing agreement or award
- "Interest" disputes involve settling, amendments to an existing collective agreement, or establishing terms for a new collective agreement

In accordance with 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 throughout Ontario.

OPAC does not influence, or interfere, in the conciliation or mediation/arbitration process. OPAC promotes harmonious labour relations to improve the effectiveness of policing in Ontario.

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 OAPSB and two representatives of associations, recommended for appointment by the PAO. The Solicitor General must consult with or attempt to consult with the bargaining agents or employers' organizations prior to a Chair being appointed to OPAC.

2018-19 Appointments

Ontario Police Arbitration Commission Chair
Sig Walter: November 1, 2017 to October 31, 2019

Ontario Association of Police Services Boards Representatives
New: Patrick Weaver: January 15, 2019 to January 14, 2021
Frances Caldarelli: January 8, 2018 to January 7, 2020

Police Association of Ontario Representatives
New: Bruce Chapman: April 11, 2019 to April 10, 2021
New: Mark Baxter: April 11, 2019 to April 10, 2021

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. In 2019, OPAC filled the second Conciliation Services Assistant position (the Executive Officer's home position) for approximately four months and utilize a temporary, On Call Admin position for the remaining months. The On Call Admin position has been highly utilized in the past. The position will be used to assist with the ongoing maintenance of OPAC's database.

Conciliator and Mediator-Arbitrator Rosters

The Chair has recruited four new mediator/arbitrators allowing for the establishment of a reserve list. The updated register of arbitrators now reflects retirements and new hires, giving OPAC 5 conciliators and 27 mediator/arbitrators. The conciliator and arbitrator registers are regularly reviewed.

Organization

Ministry of the Solicitor General

The Honourable Sylvia Jones, Solicitor General

Deputy Solicitor General, Community Safety (reports to the Solicitor General)

Assistant Deputy Minister/Chief Administrative Officer, Corporate Services Division (reports to the Deputy Solicitor General, Community Safety)

Ontario Police Arbitration Commission

Chair (reports to the Solicitor General & the Deputy Solicitor General, Community Safety)

Four Members (reports to the Chair)

- Two representatives of police boards (OAPSB)
- Two representatives of police associations (PAO)

Executive Officer (reports to the Chair and the Assistant Deputy Minister/Chief Administrative Officer)

Two Conciliation Services Assistant (reports to the Executive Officer)

On Call Admin (reports to the Executive Officer)

Financial Report

Fiscal Year 2018-19 Budget: $458,700

Fiscal Year 2018-19	Budget	Actuals	+/-
Salaries & Wages	$182,000	$135,193	$46,807
Benefits	$23,500	$19,994	$3,506
Transportation & Communication	$40,000	$32,883	$7,117
Services	$199,200	$181,612	$17,588
Supplies & Equipment	$14,000	$1,296	$12,704
Total:	**$458,700**	**$370,978**	**$87,722**

See further Services breakdown in the table below:

Services Breakdown

Fiscal Year 2018-19	Actuals
Conciliation Services	$59,621
Arbitration Services	$28,501
Other Services	$93,490
Total:	**$181,612**

The budget for 2018-19 was $458,700. In 2018-19, OPAC's total expenditures were $370,978 resulting in an underspend of $87,722. Factors that affected OPAC's expenditures were reduced numbers of conciliation applications (in part due to OPAC's strategic direction to mitigate labour disputes) and OPAC staffing was not at full complement. Total remuneration for all OPAC appointees for the 2018-19 fiscal year was $73,460.

OPAC has created a culture that seeks constant improvement to administrative procedures, service standards/delivery and fiscal accountability. The discipline deployed during the fiscal year, has in part, assisted in reducing expenditures. The Chair has engaged the OAPSB, PAO and OACP in direct discussions in an effort to find ways to mitigate undue labour relations conflict. A dramatic drop in the number of conciliation applications suggests the mitigation strategy had a positive impact. OPAC finished the year significantly under budget.

Overviews of Programs and Activities

Conciliation Services

As a result of parties not being able to resolve their differences through negotiation, a police association, police services board, or an individual 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. An impartial conciliation officer is appointed to assist the parties to resolve or reduce 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 without

proceeding to arbitration, which avoids an expensive and potentially lengthy process for all parties involved.

OPAC uses the services of five experienced conciliators, with flexible schedules that occasionally allow them to accommodate multiple hearings on the same day in various locations throughout the province.

2018-19 Conciliation Highlights

- 70 new applications for conciliator appointments
- 104 conciliation files were handled in total, including carryover from previous years
- 69 conciliations heard over 58 hearing days

Conciliation activity in fiscal year 2018-19 was lower than previous years. Activity decreased nearly by 46% from last fiscal year, reaching a record low of 70 new applications for a total of 104 files. The detailed conciliation activity report, which includes grievance types and outcomes, is available in Appendix 1.

Mediation-Arbitration Services

In the event parties are unable to resolve differences through conciliation and cannot agree on the joint appointment of an arbitrator, a police association, police services board, or an individual may request OPAC to appoint an arbitrator. In October 1997, the Police Services Act was amended to allow an assisted dispute resolution mechanism to deal with police contract bargaining disputes. As a result, the emphasis on mediation prior to arbitration has increased the number of settlements between the parties in interest and rights disputes, as reflected in OPAC's statistics.

2018-19 Arbitration Highlights

- 32 new applications for arbitrator appointments
- 51 arbitration files were handled in total, including carryover from previous years
- 19 arbitration files heard over 23 hearing days

Arbitration activity in fiscal year 2018-19 was over OPAC's 10-year average. Due to a high number of conciliations in 2017-18, an increase of arbitrations occurred in 2018-19. The detailed activity report is available in Appendix 1.

Mitigation of Undue Labour Relations Strife - Strategic Direction

OPAC has, and will, continue to utilize its statistical database to identify the frequency with which police services and police associations apply to OPAC for conciliation services or appointment of arbitrators. Where statistical analysis shows unusual increases in the number of disputes in a particular police service, OPAC will flag its observation with the OAPSB and the PAO. Subject to discussion with the two organizations, OPAC may write to a police service and police association offering OPAC's assistance if the parties mutually agree. In 2018, the Chair met with three large police services who had elevated numbers of requests for the appointment of OPAC conciliators. Subsequent to the Chair's meetings with the three police services, requests for conciliator appointments dramatically declined.

Distribution of Labour Relations Information

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, labour relations personnel in the broader public sector and the public. Individuals can freely access this information and utilize the awards, summaries, and agreements as research materials. OPAC's website has removed barriers for users in compliance with the Accessibility for Ontarians with Disabilities Act, including Web Content Accessibility Guidelines 2.0.

Performance Measures – Fiscal Year 2018-19

The following performance measures outline desired results for meeting OPAC's business objectives and strategies. These measures have been adjusted and are under review for further development in the next business-planning phase. As new strategies are implemented, new data can be tracked in the upcoming fiscal year.

1. Core Business Function: Conciliation

The following statistics are used to ensure efficient response 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's five-year average response time is 1.13 days. In fiscal year 2018-19, the average response time was 1.00 day. OPAC achieved its objective.

Objective	Outcome Statement	Measure	Result Achieved
Ensure timely delivery of professional services by qualified conciliators	Efficient delivery of conciliation services	At or below the previous 5-year average number of days to respond from receipt of application to first contact of **1.13 days**	Average number of days to respond from receipt of application to first contact = **1.00 day**

2. Core Business Function: Mediation/Arbitration

The statistics below are used to ensure efficient and timely response to applications for arbitration services. As with conciliation, every application for arbitration 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's five-year average response time is 1.06 days. In fiscal year 2018-19, the average response time was 1.00 day. OPAC fully achieved its objective.

Objective	Outcome Statement	Measure	Result Achieved
Ensure timely delivery of professional services by qualified mediator/arbitrators	Efficient delivery of mediation/arbitration services	At or below the previous 5-year average number of days to respond from receipt of application to first contact of **1.06 days**	Average number of days to respond from receipt of application to first contact = **1.00 day**

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

The statistics indicated below display the timeliness with which OPAC posts arbitration awards/decisions on the website for public use. OPAC has consistently met its requirement to publish and distribute collective agreement and arbitration award information. The results below indicate OPAC's five-year average posting time is 1.24 days. In fiscal year 2018-19, the average posting time was **1.00 day** of receipt of the summary. OPAC fully achieved its objectives.

Objective	Outcome Statement	Measure	Result Achieved
Improve stakeholder accessibility to the application process	Enhanced access to information on OPAC's website	At or below the previous 5-year average number of days for new awards to be published on OPAC website from receipt of summary of **1.24 days**	Average number of days for new awards to be published on website from receipt of summary = **1.00 day**

Appendix 1

Activity Summary: Fiscal Year 2018-19

Conciliation Activity Summary

Results 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	2	2	0	0	0
Carryover of files from 2015-16	1	0	1	0	0
Carryover of files from 2016-17	5	5	0	0	0
Carryover of files from 2017-18	25	23	2	0	0
New Conciliation requests 2018-19	70	62	3	5	0
Total files handled:	**104**	**93**	**6**	**5**	**0**
Conciliation files heard 2018-19	69	62	3	4	0
Number of hearing days	58	51	2	5	0
Average Conciliation Hearing Days Per Case:		0.84			

Conciliation File Outcomes in 2018-19

File Outcomes	Total
OPAC Lacks Jurisdiction	0
Withdrawn	6
Settled Prior to Conciliation	5
Resolved	21
Unresolved	44
On Hold	15
In Process	13
Total files handled:	**104**

Arbitration Activity Summary

Results 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 2015-16	2	2	0	0	0
Carryover of files from 2016-17	1	1	0	0	0
Carryover of files from 2017-18	15	14	1	0	0
New Arbitration requests 2018-19	32	28	3	1	0
Total files handled	**51**	**45**	**4**	**2**	**0**
Arbitration files heard 2018-19	19	15	3	1	0
Number of hearing days	23	18	2	3	0
Average Arbitration Hearing Days Per Case:		1.21			

Arbitration Hearing Outcomes 2018-19

Outcomes	Total
OPAC Lacks Jurisdiction	1
Withdrawn	4
Agreed to Own Arbitrator	1
Settled Prior to Arbitration	4
Mediated Settlement	1
Final Awards Delivered	4
Adjourned Sine Die	0
On Hold	0
In Process	36
Total files handled:	**51**

Appendix 2

Activity Summary – 10 Year Overview:

Conciliation Files

Categories	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19	Average
New Conciliation Applications	**104**	**100**	**111**	**71**	**100**	**106**	**102**	**84**	**130**	**70**	**97.8**
Rights	80	84	89	61	84	94	84	72	117	62	**82.7**
Interest	16	11	19	7	11	7	15	7	9	3	**10.5**
DFR	8	4	3	2	4	5	3	5	4	5	**4.3**
Section 40	0	1	0	1	1	0	0	0	0	0	**0.3**
Total Conciliation Applications	**137**	**119**	**133**	**108**	**123**	**120**	**129**	**115**	**165**	**104**	**125.3**
Rights	106	101	107	91	104	106	109	97	148	93	**106.2**
Interest	21	13	19	12	13	8	17	13	13	6	**13.5**
DFR	10	4	5	1	4	6	3	5	4	5	**4.7**
Section 40	0	1	2	4	2	0	0	0	0	0	**0.9**
Cases Heard	113	82	94	63	92	90	87	76	109	69	**87.5**
Number of Hearing Days	69	56	57	51	70	71	64	48	71	58	**61.5**
Average Number of Days Per Case	**0.61**	**0.68**	**0.61**	**0.81**	**0.76**	**0.79**	**0.74**	**0.63**	**0.65**	**0.84**	**0.71**

Arbitration Files

Categories	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19	Average
New Arbitration Applications	**42**	**31**	**34**	**22**	**31**	**21**	**15**	**29**	**23**	**32**	**28.0**
Rights	30	28	26	11	21	17	11	24	20	28	**21.6**
Interest	2	1	8	8	3	3	4	1	3	3	**3.6**
DFR	10	1	0	0	4	1	0	4	0	1	**2.1**
Section 40	0	1	0	3	3	0	0	0	0	0	**0.7**
Total Arbitration Applications	**55**	**49**	**56**	**44**	**47**	**44**	**37**	**39**	**41**	**51**	**46.3**
Rights	41	39	45	29	29	29	26	30	36	45	**34.9**
Interest	3	3	8	9	9	5	4	3	3	4	**5.1**
DFR	11	6	1	1	4	5	3	6	2	2	**4.1**
Section 40	0	1	2	5	5	5	4	0	0	0	**2.2**
Cases Heard	33	28	16	25	22	19	12	20	20	19	**21.4**
Number of Hearing Days	40	60	27	36	35	36	18	18	22	23	**31.5**
Average Number of Days Per Case	**1.21**	**2.14**	**1.69**	**1.44**	**1.59**	**1.89**	**1.50**	**0.90**	**1.10**	**1.21**	**1.5**

Total Files

Categories	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19	Average
Total New Applications	146	131	145	93	131	127	117	113	153	102	125.8
Total New and Carryover Applications	192	168	189	152	170	164	166	154	206	155	171.6
Total Cases Heard	146	110	110	88	114	109	99	96	129	88	108.9
Total Hearing Days	109	116	84	87	105	107	82	66	93	81	93.0

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