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**ONTARIO PAROLE BOARD:
ORDER-IN-COUNCIL APPOINTMENT OF
CAROLINE FLETCHER-DAGENAIS ***

Prepared for:

Standing Committee on
Government Agencies

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September 23, 2020

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INTRODUCTION

This paper has been prepared for Members participating in the Committee's review of the Order-in-Council appointment of Caroline Fletcher-Dagenais as a part-time member of the [Ontario Parole Board](#) (OPB or Board), which is part of the Safety, Licensing Appeals and Standards Tribunals Ontario (SLASTO) cluster under the recently established Tribunals Ontario. It describes the mandate and operations of the OPB, presents information about the appointee, and identifies possible lines of questioning.

ONTARIO PAROLE BOARD

Enabling Statutes	Responsible Ministry
<i>Ministry of Correctional Services Act</i> <i>Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009</i>	Attorney General ¹
Agency Type	Most Recent Annual Report
Adjudicative Tribunal	2018-19
Agency Activities	
The Ontario Parole Board promotes public safety by making responsible decisions regarding the return of offenders to the community through supervised conditional release (parole and unescorted temporary absences). The Board derives its authority from the federal <i>Corrections and Conditional Release Act</i>, the federal <i>Prison and Reformatories Act</i> and the Ontario <i>Ministry of Correctional Services Act</i> and Regulations. The Board, responsible to the Minister, provides in-person parole hearings automatically for offenders who are serving sentences of six months or longer. Those serving sentences of less than six months or offenders interested in a temporary absence must apply to the Board for a hearing. Inmates are eligible for release on parole after having served one-third of their sentence. They may, however, apply for early parole consideration under exceptional or compelling circumstances. A quorum of two Board members reviews all available information on an individual case prior to the in-person hearing. Additionally, the Board conducts case reviews, in quorum, and undertakes a wide scope of administrative functions and decisions. The primary goal of the Board is to assess an offender's risk to society by reoffending and to help protect society by assisting in the offender's reintegration into the community. The Ontario Parole Board is designated as part of an adjudicative tribunal cluster by regulation made under the <i>Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009</i>.²	

¹ Public Appointments Secretariat, "[Ontario Parole Board \(Tribunals Ontario\)](#)."

² Ibid.; [O. Reg. 126/10](#): Adjudicative Tribunals and Clusters, under [Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009](#), S.O. 2009, c. 33, Schedule 5, s. 2.

Board Membership	
Statutory No. of Members: As determined by the Lieutenant Governor in Council.	Term of Office: There is no limitation in legislation.
No. Appointed by Cabinet: All	Remuneration: Appointees are remunerated according to Schedule B of the <i>Agencies and Appointments Directive</i> . Part-time members receive \$472 per diem.
Position Requirements	
The selection process for the appointment of members to an adjudicative tribunal shall be a competitive, merit-based process and the criteria to be applied in assessing candidates shall include the following: 1. Experience, knowledge or training in the subject matter and legal issues dealt with by the tribunal. 2. Aptitude for impartial adjudication. 3. Aptitude for applying alternative adjudicative practices and procedures that may be set out in the tribunal's rules.³	

Remuneration of Part-Time Members

Under section 34 of the [Ministry of Correctional Services Act](#), remuneration for part-time members of the OPB is as follows: “part-time members shall serve without salary but may be paid such expenses and allowances for attendance at Board meetings and for other attendances in connection with the business of the Board as may be determined by the Lieutenant Governor in Council.”⁴

According to the Public Appointments Secretariat’s website, appointees are remunerated in accordance with [Schedule B](#) of the *Agencies and Appointments Directive*. Schedule B establishes that part-time members are entitled to receive a \$472 per diem.⁵

CURRENT OPERATIONS

Under the federal [Corrections and Conditional Release Act](#), the Ontario Parole Board is delegated the power to make decisions on applications for parole for individuals serving sentences of less than two years in provincial correctional institutions.⁶ The OPB also makes determinations with respect to applications for

³ *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, s. 14 (1).

⁴ [Ministry of Correctional Services Act](#), R.S.O. 1990, c. M.22, s. 34.

⁵ Public Appointments Secretariat, “[Ontario Parole Board \(Tribunals Ontario\)](#)”; Treasury Board Secretariat, [Agencies and Appointments Directive](#), Schedule B.

⁶ [Corrections and Conditional Release Act](#), S.C. 1992, c. 20, s. 112; *Ministry of Correctional Services Act*, s. 34.1.

temporary absences from correctional institutions for periods longer than 72 hours.⁷

According to the Tribunals Ontario [website](#), the OPB is authorized to:

- grant parole/temporary absence with conditions that are considered necessary;
- deny parole/temporary absence;
- suspend a parolee's parole and authorize the re-committal of the parolee to custody;
- lift the suspension of the parole or revoke parole; and
- cancel a temporary absence that it has granted.⁸

In considering an applicant's suitability for parole, the OPB is granted the power to obtain and consider information regarding the character, abilities and prospects of an applicant (e.g., criminal record, Superintendent report assessing progress towards rehabilitation).⁹ When the OPB holds parole hearings, it is expected to give applicants 48 hours' notice of the hearing; grant applicants the opportunity to make submissions; allow interpreters or any other person to assist (when the OPB considers it appropriate); and inform applicants of information in the Board's possession that could affect its decisions.¹⁰

According to Tribunals Ontario, the OPB may grant temporary absences to applicants to assist "their rehabilitation and successful reintegration into the community or for medical or humanitarian reasons."¹¹

On April 1, 2013, the SLASTO was designated a new adjudicative tribunal cluster under the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*. OPB is one of the five tribunals that form part of SLASTO, an adjudicative tribunal cluster under the responsibility of the Ministry of the Attorney General.¹² In January 2019, SLASTO was brought together with two other adjudicative tribunal clusters (Environment and Lands Tribunals Ontario and Social Justice Tribunals Ontario) under a new organization, Tribunals Ontario.¹³

⁷ Ministry of the Attorney General, [Tribunals Ontario 2018-19 Annual Report](#), (June 28, 2019), p. 36; [R.R.O. 1990, Reg. 778](#) (General), under *Ministry of Correctional Services Act*, s. 35(1).

⁸ Tribunals Ontario, ["About the OPB."](#)

⁹ R.R.O. 1990, Reg. 778 (General), s. 44(1).

¹⁰ *Ibid.*, s. 44(2).

¹¹ Tribunals Ontario, ["About the OPB."](#)

¹² Safety, Licensing Appeals and Standards Tribunals Ontario, [2015 – 2018 Business Plan](#), p. 1.

¹³ Tribunals Ontario, [Annual Report 2018-19](#), (June 28, 2019), p. 60.

Caseload

Caseload data for 2018-2019 indicates that the OPB received 3,531 appeals and 3,531 decisions are reported to have been rendered by the Board that year.¹⁴

Effective December 2017, all applicants serving sentences that are six months or longer will be considered for parole before their parole eligibility date regardless of whether or not they have applied for parole (unless inmates provide written waivers to the Board).¹⁵

The OPB began collecting its own statistical data in 2018, no longer relying on information provided by the Ministry of the Solicitor General. According to Tribunals Ontario, the figures reported for 2018-2019 may not be directly comparable to previous years as a result of how the Board accounts for applications received and decisions rendered.¹⁶

Performance Measure

The OPB is subject to a performance measure that 80% of decisions will be rendered within 24 hours of a hearing event. The *2018-19 Annual Report* indicates 100% of the Board's decisions have been rendered within this timeframe. However, Tribunals Ontario indicates additional time may be needed for some cases due to "technical or operational issues within the institution or if further time is required to prepare the written decision."¹⁷

FINANCIAL INFORMATION

There are no filing fees for the OPB and Tribunals Ontario did not provide Board-specific financial data in its *2018-19 Annual Report*.

RECENT DEVELOPMENTS

The [2014 Annual Report](#) of the Office of the Auditor General of Ontario recommended a review of the "cost-effectiveness, benefits and any new barriers" resulting from transferring the OPB's reporting and accountability from the Ministry of Community Safety and Correctional Services (as it was formerly named) to SLASTO, which falls under the purview of the Ministry of the Attorney General.¹⁸ The report also noted that while the OPB normally hired members with "a social work background in the area of community corrections," SLASTO had the goal of training members in all its constituent tribunals to adjudicate any type of hearing, with a particular emphasis on training in legal matters and processes.¹⁹

¹⁴ Ibid., p. 37.

¹⁵ Ibid.; R.R.O. 1990, Reg. 778 (General), s. 43.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Office of the Auditor General of Ontario, [2014 Annual Report](#), Chapter 3, Section 3.01, (Fall 2014), pp. 92-93.

¹⁹ Ibid., p. 92.

A 2015 mandate review of the OPB was conducted by an external reviewer that also considered the Auditor General's 2014 recommendations. The external reviewer found that while the transfer of the Board to SLASTO presented challenges, the change seemed to "better support independent decision-making, operational accountability and cost-effectiveness."²⁰

A September 2017 Independent Review of Ontario Corrections report, [*Corrections in Ontario: Directions for Reform*](#), highlighted several concerns with respect to the duties and responsibilities of the OPB.²¹ The report observed that the OPB had not been conducting proactive parole reviews for all inmates serving sentences of six months or longer and ministry-held supporting information was not being forwarded.²² Another concern was that ministry policy restricted the OPB's discretion to grant temporary absences.²³ The independent review noted the OPB "stands out for its seeming unwillingness to conditionally release."²⁴

The report did, however, recognize the OPB's efforts to address challenges particular to inmates from Indigenous communities, including expanding training on "culturally appropriate review and decision making for Indigenous inmates."²⁵ In its *2018-19 Annual Report*, Tribunals Ontario indicated it had "improved how circle hearings - an alternative method to mainstream parole hearings that facilitates a culturally appropriate hearing process for Indigenous applicants - are conducted by the Ontario Parole Board."²⁶

In May 2018, Bill 6, the [*Correctional Services Transformation Act, 2018*](#) was passed and, if proclaimed, would introduce provisions that affect the OPB including a statutory criteria for granting parole.²⁷

COVID-Related Changes

On March 19, 2020, in light of the COVID-19 pandemic, regulatory amendments were introduced to allow the OPB to use alternatives to in-person meetings (i.e., electronic or other written means) and allow senior corrections officials to issue temporary absence permits that are longer than 72 hours.²⁸ The Ministry of the Solicitor General's website notes new measures related to COVID-19 also include

²⁰ Office of the Auditor General of Ontario, [*Annual Report 2016: Follow-Up Reports on Value-for-Money Audits*](#), Volume 2, Chapter 1, Section 1.01, (Fall 2016), p. 21.

²¹ Howard Sapers, Ontario Independent Advisor on Corrections Reform, began his appointment in January 2017 to examine the use of segregation and consider reforms. The Independent Advisor led the Independent Review of Ontario Corrections team, which produced several interim and final [reports](#).

²² Independent Review of Ontario Corrections, [*Corrections in Ontario Directions for Reform*](#), (September 2017), p. 9.

²³ *Ibid.*, p. 5.

²⁴ *Ibid.*, pp. 151.

²⁵ *Ibid.*, p. 159.

²⁶ Tribunals Ontario, *Annual Report 2018-19*, p. 7.

²⁷ Bill 6, the [*Correctional Services Transformation Act, 2018*](#), 2018, Schedule 2, s. 143(2).

²⁸ Solicitor General, "[Ontario Stepping Up Measures to Limit the Spread of COVID-19 in Correctional System](#)," statement, March 20, 2020. See also [O. Reg. 69/20: General](#), made under *Ministry of Correctional Services Act*.

“expanding the use of temporary absences, including reviewing lower-risk, eligible inmates near the end of their sentence for early release.”²⁹ Intermittent inmates serving terms on weekends are required to report to their facilities and may, in some instances, be granted a longer temporary absence from custody.³⁰

Tribunals Ontario reports that the OPB will continue to hold Circle Hearings for Indigenous applicants by teleconference.³¹

THE WITNESS

The witness, of Rockland, is seeking appointment as a part-time Member of the Board.

According to the Office of the Premier, the witness is a former Probation/Parole Officer for the Ministry of Community Safety and Correctional Services, and a former senior advisor (Immigration) for the Minister of Employment and Immigration. She holds a Master’s in Criminology from the University of Ottawa.

POSSIBLE QUESTIONS

What has motivated the witness to seek this appointment?

Given the current concerns regarding the risk of exposure to COVID-19 in correctional institutions, what challenges does the witness anticipate with respect to the Board’s role as it relates to the province’s inmate population?

How will the witness’s previous experience be of assistance to the Board?

What contributions does the witness hope to make to the Board?

²⁹ Ministry of the Solicitor General, ["Correctional services update on COVID-19."](#)

³⁰ Ibid.

³¹ Tribunals Ontario, [Ontario Parole Board Updates.](#)