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**ONTARIO CIVILIAN POLICE COMMISSION:
ORDER-IN-COUNCIL APPOINTMENT OF LOUISE CHARETTE***

Prepared for:

Standing Committee on Government Agencies

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INTRODUCTION

This document was prepared for Members participating in the Committee's review of the Order-in-Council appointment of Louise Charette as a member (part-time) of the Ontario Civilian Police Commission.

The document describes the mandate and operations of the Commission, presents information about the appointee, and identifies possible lines of questioning.

ONTARIO CIVILIAN POLICE COMMISSION

Enabling Statute	Responsible Ministry
Police Services Act	Attorney General
Agency Type	Most Recent Annual Report
Adjudicative	2020-21 (Tribunals Ontario)
Activities of the Agency	
The Commission is an independent, quasi-judicial agency that hears appeals, adjudicates applications, conducts investigations, and resolves disputes regarding the oversight and provision of policing services.	
Board Membership	
Statutory No. of Members: As determined by Cabinet	Position Remuneration ¹ Chair / Associate Chair: \$174,184—\$199,059 Vice-Chairs (Part-Time): \$583 per diem Members (Part-Time): \$472 per diem
Number Appointed by Cabinet: All	
Term of Office: None specified	
Position Requirements	
Members are appointed in accordance with a competitive, merit-based process that assesses a candidate’s (1) experience, knowledge, or training on the subject matter and legal issues dealt with by the tribunal; (2) aptitude for impartial adjudication; and (3) aptitude for applying alternative adjudicative practices and procedures. ²	

¹ Public Appointments Secretariat, [Schedule B: remuneration of appointees to adjudicative tribunals and regulatory agencies](#).

² [Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009](#), s. 14(1).

COMMISSION MANDATE AND OPERATIONS

Established under the *Police Services Act*, the Ontario Civilian Police Commission is an independent, quasi-judicial agency that hears appeals, adjudicates applications, conducts investigations, and resolves disputes regarding the oversight and provision of policing services. These duties include hearing appeals of police disciplinary decisions and conducting investigations and inquiries into the conduct of chiefs of police, police officers, and members of police services boards.

The Commission is one of three civilian police oversight agencies in Ontario. The others are the Special Investigations Unit (SIU), which investigates incidents involving the police that result in death, serious injury, the discharge of a firearm, or an allegation of sexual assault, and the Office of the Independent Police Review Director (OIPRD), which handles all public complaints about police officers.³

As outlined below, the Commission consists of two divisions—the Adjudicative and the Investigative. The divisions operate independently under one Registrar.

Adjudicative Division

Appeals

The Commission hears appeals from police disciplinary hearings regarding complaints about police conduct made by members of the public. Under the Act, the Commission has authority to

- confirm, vary, or revoke the decision of the hearing officer;
- substitute its own decision; or
- order that a new hearing take place.⁴

First Instance Hearings

The Commission holds various types of “first instance” hearings (as opposed to appeals). At these hearings, the Commission may

- decide disputes between police services boards and municipal councils about annual police budgets;
- determine whether a disabled member of a police service has been accommodated;
- adjudicate disputes about membership in municipal police bargaining units; and

³ In 2019, the Legislature passed Bill 68, the *Comprehensive Ontario Police Services Act, 2019*. When proclaimed into force, the Bill will introduce several changes to the oversight of policing. One of the changes is that the Commission will be dissolved and its functions assumed by the Law Enforcement Complaints Agency (currently the OIPRD), the Inspector-General of Policing, and the Ontario Police Arbitration and Adjudication Commission (currently the Ontario Police Arbitration Commission).

⁴ *Police Services Act*, s. 87(8).

- determine whether a police service is meeting the standards of service prescribed by the Act and regulations.⁵

Approvals

The Commission's consent is required whenever a municipal police services board proposes to terminate the employment of a member of its police force for the purpose of abolishing the force or reducing its size.⁶ The Commission also approves the appointment of First Nations Constables to perform specified duties in designated parts of the province.⁷

Investigative Division

The Commission—on its own motion, or at the request of the Solicitor General, the Independent Police Review Director, a municipal council, or a board—may investigate, inquire into, and report on

- the conduct or the performance of duties of a police officer, a municipal chief of police, an auxiliary member of a police force, a special constable, a municipal law enforcement officer, or a member of a board;
- the administration of a municipal police force;
- the manner in which a municipality is providing police services; and
- the police needs of a municipality.⁸

Statistics and Caseload

The Commission is part of a cluster of 14 adjudicative tribunals within Tribunals Ontario. In 2020-21, Tribunals Ontario reported that the Commission

- *exceeded its performance measure targets* in two areas: (1) case conferences to take place within 3 months of receipt of an application or appeal; and (2) approval of First Nations Constable appointments to be processed within 5 business days of receipt of the request; and
- *did not meet performance measure targets* in three other areas: (1) hearings to take place within 3 months of a case conference; (2) decisions to be issued within 3 months of the conclusion of a hearing; and (3) appeals or applications to be resolved within 9 months.

Tribunals Ontario explained that the COVID-19 pandemic was largely responsible for the Commission's inability to meet all of its targets. For example, party counsel were not readily available for hearings and appeals, and the cessation of in-person hearings required a transition period to allow for the introduction of a streamlined hearings model and video-conferencing.⁹

⁵ *Police Services Act*, ss. 39(5), 47(6), 116, and 23.

⁶ *Police Services Act*, s. 40.

⁷ *Police Services Act*, s. 54(1).

⁸ *Police Services Act*, s. 25(1)

⁹ [Tribunals Ontario 2020-21 Annual Report](#).

The below table sets out the Commission's caseload over the last four fiscal years.

Commission Caseload

Caseload	2020-2021	2019-2020	2018-2019	2017-2018
Appeals Opened	9	12	14	13
Appeals Closed	14	6	15	28
Active appeals at fiscal year end	10	6	10	12
Hearings Held	7	11	8	19
Decisions Rendered	13	3	13	29
Investigation requests received	3	2	30	20
Investigation cases closed	2	13	17	23
Investigation cases pending	6	7	18	5

Source: [Tribunals Ontario 2020-21 Annual Report](#).

FINANCIAL INFORMATION

Tribunals Ontario does not report agency-specific financial data.

RECENT DEVELOPMENTS

According to Tribunals Ontario, since the onset of the COVID-19 pandemic, the main challenge facing the cluster has been to maintain continuity of service.

As described in its most recent annual report, this entailed “mov[ing] swiftly in order to ensure the continued health and well-being of staff, adjudicators and participants while providing fair, independent, transparent, effective, accessible and timely dispute resolution services.”¹⁰

For its part, the Commission has implemented a number of measures, including

- integrating video technology into its processes in May 2020 (although hearing scheduling and appeal resolution were affected by the availability of party counsel);
- continuing to seek ways of employing technology to streamline the hearing process; and

¹⁰ Ibid.

- developing a process for streamlining incoming correspondence from parties involved in investigation matters, including the implementation of a robust tracking system and consistent naming conventions.¹¹

In February 2022, the Commission announced an investigation into the Thunder Bay Police Services (TBPS) due to concerns about the management of police discipline, the conduct of criminal investigations by officers, and the ability of senior leadership to administer policing operations in good faith and in compliance with legislative requirements. The Commission noted that these concerns were based on the results of a preliminary review conducted into the TBPS at the request of Solicitor General Sylvia Jones and from the Thunder Bay Police Services Board.¹²

THE WITNESS

The witness, Louise Charette, is seeking appointment as a part-time member.

According to the Office of the Premier, the witness, of L'Orignal, is a member (part-time) of the Ontario Parole Board and the Social Benefits Tribunal. She is a former Criminal Duty Counsel with Legal Aid Ontario and a former Assistant Crown Attorney with the Ontario Ministry of the Attorney General.

POSSIBLE QUESTIONS

1. *What has motivated the witness to seek this appointment?*
2. *According to the **Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009** (the legislation that sets out the criteria for appointment to Ontario's adjudicative tribunals), appointees should demonstrate*

(1) experience, knowledge, or training on the subject matter and legal issues dealt with by the tribunal;

(2) aptitude for impartial adjudication; and

(3) aptitude for applying alternative adjudicative practices and procedures.

Could the witness indicate how she meets these criteria?

3. *In the witness' view, what are the main challenges facing the Ontario Civilian Police Commission in the coming months?*

¹¹ Ibid.

¹² Tribunals Ontario, [Latest News](#).